

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

ERIC B. BARNEY, JR.,

Plaintiff - Appellant,

v.

COMMANDER HARTMANN, and
JANE OR JOHN DOE OFFICER,

Defendants - Appellees.

No. 07-1451
(D.C. No. 06-cv-01216-MSK-PAC)

ORDER

Filed October 23, 2007

Before **TACHA**, Chief Judge, and **HENRY** and **HARTZ**, Circuit Judges.

This court lacks jurisdiction over this appeal because the notice of appeal was filed late. The district court's order dismissing this matter was entered on February 28, 2007, and the notice of appeal was filed on October 16, well beyond the 30 days required by statute and rule. *See* 28 U.S.C. § 2701(a) (where the United States is not a party, a notice of appeal in a civil matter must be filed within 30 days of entry of judgment); Fed. R. App. P. 4(a)(1)(A) (same).

Because a timely notice of appeal is both mandatory and jurisdictional, *see Bowles v. Russell*, ___ U.S. ___, 127 S.Ct. 2360, 2363, 2366 (2007), this appeal is **DISMISSED.**

Entered for the Court
ELISABETH A. SHUMAKER, Clerk



Ellen Rich Reiter
Deputy Clerk/Jurisdictional Attorney