

UNITED STATES COURT OF APPEALS  
FOR THE TENTH CIRCUIT

January 4, 2010  
Elisabeth A. Shumaker  
Clerk of Court

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JOHN CHARLES FLETCHER,

Defendant - Appellant.

No. 09-6265  
(D.C. No. 5:09-CR-00021-M-1)

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**ORDER**

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Before **TACHA, TYMKOVICH, and HOLMES**, Circuit Judges.

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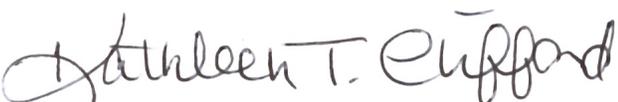
Defendant John Fletcher appeals the district court's July 23, 2009 interlocutory order entered in his criminal case that denied his motion to dismiss for denial of speedy trial.

Under Fed. R. App. P. 4(b)(1)(A)(i), the ten-day deadline for filing a notice of appeal in this criminal case expired on August 6, 2009. Defendant filed a *pro se* notice of appeal in the district court on November 17, 2009, which was well beyond the ten-day deadline. Although non-compliance with the time limit in Rule 4(b)(1)(A)(i) is not jurisdictional, the United States has properly raised the timeliness issue by filing a motion to dismiss. *See United States v. Garduno*, 506 F.3d 1287, 1290-91 (10th Cir. 2007); *see also United States v. deShazer*, 451 F.3d 1221, 1222 (10th Cir. 2006) (appellate court lacks jurisdiction to review interlocutory orders of district court refusing to dismiss indictments on speedy trial

grounds).

Accordingly, the United States' motion to dismiss is **GRANTED**. The appeal is **DISMISSED**. All pending motions are **DENIED**.

Entered for the Court,  
Elisabeth A. Shumaker, Clerk

A handwritten signature in black ink that reads "Kathleen T. Clifford". The signature is written in a cursive, flowing style.

Kathleen T. Clifford  
Attorney - Deputy Clerk