

March 24, 2010

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

Elisabeth A. Shumaker
Clerk of Court

LAYBE TORRES,

Plaintiff - Appellant,

v.

CHRIS SANCHEZ; MICHAEL
VIGIL; DENISE SOTO; LIZA
SULLIVAN; JOSEPH SALAZAR,

Defendants - Appellees.

No. 10-2059
(D.C. No. 1:08-CV-00462-WJ-CG)

ORDER

Before **LUCERO, HARTZ, and TYMKOVICH**, Circuit Judges.

The court orders that this appeal be dismissed as untimely.

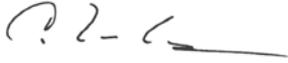
Mr. Torres's notice of appeal was due within 30 days of the entry of the district court's July 21, 2009 judgment - on or before August 20, 2009. *See* Fed. R. App. P. 4(a)(1)(A) and 28 U.S.C. § 2107 (a) (notice of appeal due within 30 days). It was not filed until March 16, 2010. No timely motion for an extension of time was filed in the district court. *See* Fed. R. App P. 4 (a)(5) and 28 U.S.C. § 2107 (c) (motion for extension of time must be filed within 30 days after the prescribed time for filing the notice of appeal). This court cannot extend the

time for filing a notice of appeal. *See* Fed. R. App. P. 4 (a)(5) and *Alva v. Teen Help*, 469 F.3d 946, 950 (10th Cir. 2006) (court of appeals lacks authority to find excusable neglect and extend the time for filing notice of appeal; only the district court may do so).

Because the notice of appeal was untimely, this court lacks jurisdiction to consider this appeal. *Bowles v. Russell*, 551 U.S. 205 (2007).

APPEAL DISMISSED.

Entered for the Court
ELISABETH SHUMAKER, Clerk of Court

by: 
Christine Van Coney
Counsel to the Clerk