

UNITED STATES COURT OF APPEALS February 2, 2012

FOR THE TENTH CIRCUIT Elisabeth A. Shumaker  
Clerk of Court

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SEAN J. LEVIN,  
  
Petitioner - Appellant,  
  
v.  
  
ANTHONY ROMERO, Warden,  
  
Respondent - Appellee.

No. 12-2008  
(D.C. No. 1:11-CV-00204-JCH-RHS)

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**ORDER**

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Before **LUCERO, MURPHY, and HOLMES**, Circuit Judges.

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Mr. Levin is appealing from the district court's judgment entered on November 28, 2011. The court orders that this appeal be dismissed as untimely.

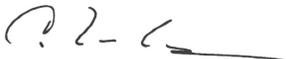
Pursuant to Fed. R. App. P. 4(a)(1)(A) (30 days for filing a notice of appeal in a civil case), Mr. Levin's notice of appeal was due on or before December 28, 2011. It was not filed until January 19, 2012. Mr. Levin did not request an extension of time from the district court to file his notice of appeal and this court cannot grant such an extension. *See* Fed. R. App. P. 4 (a)(5) and *Alva v. Teen Help*, 469 F.3d 946, 950 (10<sup>th</sup> 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). Mr. Levin's request for an extension of time pursuant to Fed. R. App. P. 4 (a)(6) is denied. Relief pursuant to Rule 4 (a)(6) must be requested from the district court.

**APPEAL DISMISSED.**

Entered for the Court  
ELISABETH SHUMAKER, Clerk of Court

by: 

Christine Van Coney  
Counsel to the Clerk