

FILED

United States Court of Appeals  
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

September 12, 2012

Elisabeth A. Shumaker  
Clerk of Court

YVETTE A. GARCIA,

Plaintiff - Appellant,

v.

M. F. TRUJILLO; BRIAN VIGIL,

Defendants - Appellees.

No. 12-2117

(D.C. No. 1:11-CV-00614-RHS-ACT)

ORDER

Before **HARTZ**, **HOLMES**, and **MATHESON**, Circuit Judges.

This court lacks jurisdiction over this appeal because the notice of appeal was filed late.

Judgment was entered on the docket on June 12, 2012, and the notice of appeal was filed on July 16, 2012.

In a civil case, in which the United States is not a party, a notice of appeal must be filed within 30 days of entry of the order being appealed. *See* 28 U.S.C. § 2107(a) (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). A timely notice of appeal in a civil case is both mandatory and jurisdictional. *See Bowles v. Russell*, 551 U.S. 205, 209, 213 (2007).

It is clear from both the Federal Rules of Civil Procedure and the Federal Rules of Appellate Procedure that in computing any time period which is stated in days “every day, including intermediate Saturdays, Sundays, and legal holidays” is counted. Fed. R. Civ. P. 6(a)(1)(B); Fed. R. App. P. 26(a)(1)(B). The only time Saturdays, Sundays or legal holidays are not included is when the last day of the period falls on such a day. *See* Fed. R. Civ. P. 6(a)(1)(C); Fed. R. App. P. 26(a)(1)(C). Accordingly, in calculating the time to appeal, every calendar day is included, except when it is the last day. Here, the thirtieth day, and thus the last day to file the notice of appeal, was Thursday, July 12.

Because the notice of appeal was filed more than 30 days after entry of judgment, this court lacks jurisdiction. **APPEAL DISMISSED.**

Entered for the Court  
ELISABETH A. SHUMAKER, Clerk



by: Ellen Rich Reiter  
Jurisdictional Attorney