

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

August 28, 2012

Elisabeth A. Shumaker
Clerk of Court

RUBEN RUDY TRUJILLO,

Plaintiff - Appellant,

v.

STATE OF UTAH; KRISTEN COX; DON
UCHIDA,

Defendants - Appellees.

No. 12-4151
(D.C. No. 2:11-CV-00841-CW)

ORDER

Before **MURPHY, GORSUCH,** and **MATHESON,** Circuit Judges.

Pro se plaintiff Ruben Rudy Trujillo appeals the district court’s final order and judgment. The notice of appeal was filed out of time, however. Consequently, we have concluded that this court lacks jurisdiction to consider the appeal.

“A timely notice of appeal is both mandatory and jurisdictional.” *Allender v. Raytheon Aircraft Co.*, 439 F.3d 1236, 1239 (10th Cir. 2006) (quotation omitted). In a civil case, a notice of appeal must be filed within 30 days after the judgment or order appealed from is entered. Fed. R. App. P. 4(a)(1)(A). “[T]he timely filing of a notice of appeal in a civil case is a jurisdictional requirement,” and this court “has no authority to create equitable exceptions to jurisdictional requirements.” *Bowles v. Russell*, 551 U.S. 205, 213-14 (2007). Although Mr. Trujillo is proceeding *pro se*, he must comply with

the same procedural requirements that govern other litigants. *Kay v. Bemis*, 500 F.3d 1214, 1218 (10th Cir. 2007); *Ogden v. San Juan County*, 32 F.3d 452, 455 (10th Cir. 1994).

In this case, the district court's final order adopting the magistrate judge's recommendation of dismissal was entered on December 16, 2011. The separate judgment was entered on December 19, 2011. To be timely, the notice of appeal should have been filed by January 18, 2012. The notice was not filed until August 27, 2012, more than seven months after the deadline passed. Thus, "[t]he time limit has run and we are without jurisdiction under the facts of this case." *Jenkins v. Burtzloff*, 69 F.2d 460, 464 (10th Cir. 1995).

APPEAL DISMISSED.

Entered for the Court
ELISABETH A. SHUMAKER, Clerk



by: Lara Smith
Counsel to the Clerk