

FILED

United States Court of Appeals  
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

October 31, 2013

Elisabeth A. Shumaker  
Clerk of Court

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ALEJANDRO JURADO-GARCIA, a/k/a  
"The Mechanic",

Defendant - Appellant.

No. 13-1450  
(D.C. No. 1:12-CR-00047-MSK-11)

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**ORDER**

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Before **KELLY, HARTZ, and O'BRIEN**, Circuit Judges.

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Defendant Alejandro Jurado-Garcia appeals from the district court's final judgment entered on July 18, 2013. The government filed a motion to dismiss the appeal because the notice of appeal was not filed timely. The motion stated that Defendant's counsel does not oppose the relief requested. Upon consideration, the government's motion is granted, and this appeal is dismissed.

A notice of appeal in a criminal case must be filed within 14 days after entry of the judgment. Fed. R. App. P. 4(b)(1)(A)(i). Although not jurisdictional, the timeliness requirement of Rule 4(b) is an inflexible claim processing rule. *United States v. Garduño*, 506 F.3d 1287, 1290-91 (10th Cir. 2007).

In this case, the judgment was entered on the district court docket on July 18, 2013. The notice of appeal should have been filed on or before August 1, 2013. Defendant filed a pro se notice of appeal on October 28, 2013, long after the time to appeal expired.

The government has filed a motion correctly arguing that the pro se notice of appeal was untimely. Because “the time bar in Rule 4(b) must be enforced by this court when properly invoked by the government,” the government’s motion to dismiss this appeal is granted. *United States v. Mitchell*, 518 F.3d 740, 744 (10th Cir. 2008) (citing *Garduño*, 506 F.3d at 1290-91).

APPEAL DISMISSED.

Entered for the Court  
ELISABETH A. SHUMAKER, Clerk



by: Lara Smith  
Counsel to the Clerk