

FILED

United States Court of Appeals  
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

January 29, 2015

Elisabeth A. Shumaker  
Clerk of Court

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JUAN JUAREZ-MORENO,

Defendant - Appellant.

No. 14-4109  
(D.C. No. 2:12-CR-00644-TS-RTB-1)

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**ORDER**

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

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This matter is before us on the government's *Motion to Dismiss*. The government seeks to dismiss this direct criminal appeal, filed by the defendant Juan Juarez-Moreno, on timeliness grounds. Counsel for Mr. Juarez-Moreno concedes that the notice of appeal was untimely.

In a criminal case, the notice of appeal must be filed in the district court within 14 days after entry of the judgment. Fed. R. App. P. 4(b)(1). Although the district court may grant an extension of time for filing the notice of appeal, this extension may not exceed 30 days from the original deadline for filing the notice of appeal. *See* Fed. R. App. P. 4(b)(4).

In the instant case, the district court entered judgment against Mr. Juarez-Moreno on March 6, 2014, making the notice of appeal due no later than March 20, 2014. Even if

the district court had granted the maximum extension of time allowed under the rules, the time for filing the notice of appeal would have expired in April of 2014. Mr. Juarez-Moreno filed his notice of appeal on September 9, 2014, well beyond the deadline for filing an appeal.

The timely filing of a notice of appeal by the defendant in a criminal case is an inflexible claim-processing rule that may be forfeited if not properly raised by the government. *United States v. Garduño*, 506 F.3d 1287, 1290-91 (10th Cir. 2007). If properly raised, however, we must grant relief. *United States v. Mitchell*, 518 F.3d 740, 744 (10th Cir 2008) (citing *Garduño*, 506 F.3d at 1290-91). Because the government has properly invoked the time bar in Rule 4(b), and we agree that the notice of appeal was untimely, the government's motion to dismiss this appeal is granted.

Appeal dismissed.

A copy of this order shall stand as and for the mandate of the court.

Entered for the Court  
ELISABETH A. SHUMAKER, Clerk

A handwritten signature in black ink, appearing to read "Jane K. Castro", with a long horizontal flourish extending to the right.

by: Jane K. Castro  
Counsel to the Clerk