

**FILED**

**United States Court of Appeals  
Tenth Circuit**

**UNITED STATES COURT OF APPEALS**

**FOR THE TENTH CIRCUIT**

**January 7, 2015**

**Elisabeth A. Shumaker  
Clerk of Court**

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

EUGENE ISIAH ROBERTS,

Defendant - Appellant.

No. 14-6200  
(D.C. No. 5:02-CR-00070-D-1)

**ORDER**

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

Pro se defendant Eugene Roberts appeals the district court’s order denying his 2014 post-conviction motion attempting to amend a 2002 motion filed in connection with his criminal prosecution. The government filed a motion to dismiss the appeal because the notice of appeal was not filed timely. The defendant was provided an opportunity to respond to the motion to dismiss, but did not personally submit a response. Upon consideration, the government’s motion to dismiss is granted.

A notice of appeal from an order entered in a criminal case must be filed within 14 days after entry of the order being appealed. Fed. R. App. P. 4(b)(1)(A)(i). 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). Although the defendant is

proceeding *pro se*, he must comply with the same procedural requirements that govern other litigants. *Ogden v. San Juan County*, 32 F.3d 452, 455 (10th Cir. 1994).

In this case, the order denying the post-conviction motion was entered September 22, 2014. The deadline to file a notice of appeal from the judgment was October 6, 2014. The notice of appeal was not filed until October 14, 2014, eight days after the filing deadline expired.

The government has filed a motion correctly arguing that the notice of appeal was untimely filed. The defendant has personally not submitted any argument to the contrary, nor can we conceive of any. Accordingly, the government's motion to dismiss the appeal must be granted. *United States v. Mitchell*, 518 F.3d 740, 744 (10th Cir. 2008) (“[T]he time bar in Rule 4(b) must be enforced by this court when properly invoked by the government.” (citing *Garduño*, 506 F.3d at 1290-91)).

APPEAL DISMISSED.

Entered for the Court  
ELISABETH A. SHUMAKER, Clerk

A handwritten signature in black ink that reads "Lara Smith". The signature is written in a cursive, flowing style.

by: Lara Smith  
Counsel to the Clerk