

FILED

United States Court of Appeals  
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

May 1, 2015

Elisabeth A. Shumaker  
Clerk of Court

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DAVID MILLAN-MILLAN,

Defendant - Appellant.

No. 15-2072  
(D.C. No. 2:14-CR-02471-RB-1)  
(D. N.M.)

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**ORDER**

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Before **TYMKOVICH, HOLMES,** and **BACHARACH,** Circuit Judges.

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David Millan-Millan, proceeding pro se, appeals the judgment entered in his criminal case on September 9, 2014. Mr. Millan-Millan filed his notice of appeal on April 24, 2015.

In a criminal case, a defendant's 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)(A). The timely filing of a notice of appeal by the defendant 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). However, because Rule 4(b) implicates important judicial interests beyond those of the parties, the court may raise the time bar sua sponte in certain circumstances. *United States v. Mitchell*, 518 F.3d 740, 750 (10th Cir 2008).

This power is limited and should not be invoked unless judicial resources and administration are implicated and the delay has been inordinate. Id.

Under the circumstances of this case, dismissal of this appeal as untimely is appropriate. Mr. Millan-Millan's notice of appeal, filed more than seven months after judgment was entered, was inordinately late. Further, it appears as though this appeal may be precluded by the appeal waiver that Mr. Millan-Millan executed in the proceedings below. Accordingly, this appeal is 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 'Chris Wolpert', with a long horizontal stroke extending to the right.

by: Chris Wolpert  
Chief Deputy Clerk