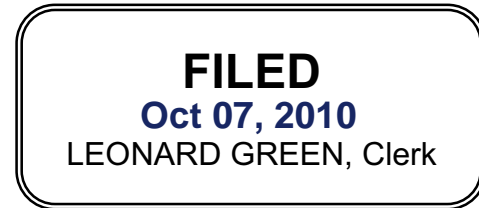


NOT RECOMMENDED FOR FULL-TEXT PUBLICATION

File Name: 10a0641n.06

No. 08-4253

**UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT**



UNITED STATES OF AMERICA,)	
)	
Plaintiff-Appellee,)	ON APPEAL FROM THE
)	UNITED STATES DISTRICT
v.)	COURT FOR THE
)	NORTHERN DISTRICT OF
LUIS ESCOBEDO-SALINAS,)	OHIO
)	
Defendant-Appellant.)	OPINION

BEFORE: MARTIN and McKEAGUE, Circuit Judges; and LUDINGTON, District Judge.*

PER CURIAM. Defendant Luis Escobedo-Salinas pleaded guilty to the charge of illegal re-entry after being deported, in violation of 8 U.S.C. § 1326. He was sentenced on August 11, 2008 to a prison term of 60 months. The judgment of sentence was entered on August 12, 2008. Defendant filed his notice of appeal on September 4, 2008, contending the sentence is unreasonable.

Under Fed. R. App. P. 4(b)(1)(A), as it existed when defendant was sentenced, defendant was required to file his notice of appeal within 10 days after entry of the judgment, or, in other words, not later than August 26, 2010.¹ His notice of appeal was not filed within this period. Nor did

*Honorable Thomas L. Ludington, United States District Judge for the Eastern District of Michigan, sitting by designation.

¹Effective December 1, 2009, the Rule 4(b)(1)(A) time period was changed to 14 days. However, prior to December 1, 2009, the applicable 10-day period was calculated without counting intermediate Saturdays, Sundays and holidays, per Fed. R. App. P. 26(a), a method that also

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defendant seek and obtain an extension of the 10-day period in the district court based on a showing of excusable neglect or good cause, as permitted by Rule 4(b)(4). Further, although defendant was confined at the Northeast Ohio Correctional Center in Youngstown, Ohio, at the time the notice of appeal was filed, he has not made the showing required under Rule 4(c)(1) that he deposited the notice of appeal in the Correctional Center's internal mail system on or before August 26, 2010.

It follows that defendant's notice of appeal was not timely filed. Because the time limit prescribed by Rule 4(b) is mandatory and jurisdictional, we lack jurisdiction to hear defendant's appeal. *United States v. Dotz*, 455 F.3d 644, 647 (6th Cir. 2006). Lacking jurisdiction, we have no alternative but to dismiss the appeal. Accordingly, defendant's appeal is hereby **DISMISSED**.

effectively afforded defendant 14 calendar days within which to file notice of appeal.