

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 05-4284

Jay A. Ochanpaugh; Caralee D.
Ochanpaugh,

Appellants,

v.

Penny Albright; Ida M. Jones,

Appellees.

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* Appeal from the United States
* District Court for the
* Southern District of Iowa.
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* [UNPUBLISHED]
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Submitted: November 27, 2006
Filed: November 30, 2006

Before MURPHY, BYE, and MELLOY, Circuit Judges.

PER CURIAM.

Jay and Caralee Ochanpaugh (plaintiffs) appeal from the district court's¹ dismissal of their civil action and the court's denial of their postjudgment motions to strike, which were filed more than ten days after the entry of judgment.

Plaintiffs' notice of appeal was untimely because it was not filed within sixty days after the district court entered its judgment, as required under Federal Rule of

¹The Honorable James E. Gritzner, United States District Judge for the Southern District of Iowa.

Appellate Procedure 4(a)(1)(B); plaintiffs did not move for an extension of time to appeal, pursuant to Federal Rule of Appellate Procedure 4(a)(5), see Fed. R. App. P. 26(b)(1) (court may not extend time to file notice of appeal except as authorized by Rule 4); and none of plaintiffs' postjudgment motions extended the time allowed to file their notice of appeal because, even if the motions were construed as Rule 59 motions, they were untimely, see Sanders v. Clemco Indus., 862 F.2d 161, 168-69 (8th Cir. 1988) (time for appeal not tolled by untimely Rule 59 motion).

Accordingly, we dismiss this appeal for lack of jurisdiction. See United States v. Stute Co., 402 F.3d 820, 822 (8th Cir. 2005) (timely notice of appeal is mandatory and jurisdictional).
