

IN THE UTAH COURT OF APPEALS

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State of Utah,	)	MEMORANDUM DECISION
	)	(Not For Official Publication)
Plaintiff and Appellee,	)	
	)	Case No. 20100536-CA
v.	)	
	)	F I L E D
Michael Martin,	)	(August 26, 2010)
	)	
Defendant and Appellant.	)	<span style="border: 1px solid black; padding: 2px;">2010 UT App 238</span>

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Third District, Salt Lake Department, 041907590  
The Honorable Deno G. Himonas

Attorneys: Michael Martin, Salt Lake City, Appellant Pro Se

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Before Judges McHugh, Thorne, and Roth.

PER CURIAM:

Michael Martin appeals his conviction after entering a plea of no contest to a charge of criminal mischief. This is before the court on its own motion for summary disposition based on lack of jurisdiction due to an untimely filed notice of appeal.

A notice of appeal must be filed within thirty days after the entry of the order or judgment appealed. See Utah R. App. P. 4(a). The time period for filing an appeal is jurisdictional. See State v. Bowers, 2002 UT 100, ¶ 5, 57 P.3d 1065. In a criminal case, it is the sentence that constitutes the final judgment from which to appeal. See id. ¶ 4.

Martin was sentenced on his no contest plea on August 28, 2009. His notice of appeal was not filed within thirty days after the entry of the sentence.<sup>1</sup> Accordingly, the notice of

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<sup>1</sup>Martin did not file a notice of appeal until June 2010, after the trial court addressed restitution and other postconviction issues. However, Martin did not identify any issue regarding those matters and, instead, attempts to reach back to challenge his conviction. The final order for that purpose was the sentence on August 28, 2009. Furthermore, to the  
(continued...)

appeal was untimely and this court lacks jurisdiction over the appeal.<sup>2</sup> See id. ¶ 5.

Dismissed.

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Carolyn B. McHugh,  
Associate Presiding Judge

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William A. Thorne Jr., Judge

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Stephen L. Roth, Judge

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<sup>1</sup>(...continued)  
extent that Martin asserts there was no crime committed, that challenge is precluded by his no contest plea. A plea of no contest means the defendant does not challenge the charges and has the same effect as a guilty plea. See Utah Code Ann. § 77-13-2(3) (2008). Accordingly, the factual basis for the charge has been established. See State v. Yates, 918 P.2d 136, 140 (Utah Ct. App. 1996) (stating that upon acceptance of a plea agreement, the underlying facts of a crime become undisputed).

<sup>2</sup>Martin may seek relief in the trial court under rule 4(f) of the Utah Rules of Appellate Procedure if the failure to file a timely appeal was through no fault of his own, or he may seek postconviction relief pursuant to the Post-Conviction Remedies Act. See Utah Code Ann. §§ 78B-9-101 to -405 (2008).