

IN THE UTAH COURT OF APPEALS

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State of Utah,)	MEMORANDUM DECISION
)	(Not For Official Publication)
Plaintiff and Appellee,)	
)	Case No. 20061142-CA
v.)	
)	F I L E D
Michael Christopher Russo,)	(April 19, 2007)
)	
Defendant and Appellant.)	2007 UT App 133

Third District, Salt Lake Department, 061901032
The Honorable Leslie A. Lewis

Attorneys: John Pace, Salt Lake City, for Appellant
Mark L. Shurtleff and Kris C. Leonard, Salt Lake
City, for Appellee

Before Judges Greenwood, Billings, and Orme.

PER CURIAM:

Michael Christopher Russo appeals his conviction and sentence for forgery. This case is before the court on its own motion for summary disposition based upon lack of jurisdiction due to the failure to file a timely notice of appeal. See Utah R. App. P. 4(a).

A notice of appeal must be filed "with the clerk of the trial court within 30 days after the date of entry of the judgment or order appealed from." Id. If an appeal is not timely filed, this court lacks jurisdiction to hear the appeal and must dismiss. See Serrato v. Utah Transit Auth., 2000 UT App 299, ¶7, 13 P.3d 616.

The district court entered its sentence, judgment, and commitment on September 26, 2006. Russo did not file a notice of appeal until December 18, 2006, approximately two months beyond the time limitation set forth in rule 4(a). See Utah R. App. P. 4(a). At the same time Russo filed his notice of appeal, he also filed a motion for an extension of time to file a notice of appeal. However, the motion for an extension of time to file the notice of appeal was also untimely. See Utah R. App. P. 4(e) (stating that a motion for extension of time to appeal must be

filed no later than 30 days after the standard period for filing notices of appeal has run). Because Russo did not timely file his notice of appeal, this court lacks jurisdiction to hear the appeal and must dismiss. See Varian-Eimac, Inc. v. Lamoreaux, 767 P.2d 569, 570 (Utah Ct. App. 1989) (stating that if the court lacks jurisdiction over an appeal, it has only the authority to dismiss the action).

The appeal is dismissed.

Pamela T. Greenwood,
Associate Presiding Judge

Judith M. Billings, Judge

Gregory K. Orme, Judge