

IN THE UTAH COURT OF APPEALS

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Utah Surgical Center, LLC,	)	MEMORANDUM DECISION
	)	(Not For Official Publication)
Plaintiff and Appellee,	)	
	)	Case No. 20100248-CA
v.	)	
	)	F I L E D
Elvira Tobar,	)	(July 29, 2010)
	)	
Defendant and Appellant.	)	<span style="border: 1px solid black; padding: 2px;">2010 UT App 207</span>

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Third District, West Jordan Department, 090413206  
The Honorable Robert Adkins

Attorneys: Elvira Tobar, Taylorsville, Appellant Pro Se

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Before Judges Thorne, Voros, and Christiansen.

PER CURIAM:

Elvira Tobar seeks to appeal the district court's entry of judgment. This matter is before the court on a sua sponte motion for summary disposition. We dismiss the appeal for lack of jurisdiction.

A notice of appeal must be filed within thirty days of the entry of the final order or judgment appealed. See Utah R. App. P. 4(a). If a notice of appeal is not timely filed, this court lacks jurisdiction to consider the appeal. See Serrato v. Utah Transit Auth., 2000 UT App 299, ¶ 7, 13 P.3d 616. If the court lacks jurisdiction over an appeal, it has only the authority to dismiss the appeal. See Varian-Eimac, Inc. v. Lamoreaux, 767 P.2d 569, 570 (Utah Ct. App. 1989).

In appeals taken from civil judgments, in order to extend the time to file a notice of appeal, a postjudgment motion may be filed pursuant to rule 50(b), 52(b), or 59 of the Utah Rules of Civil Procedure. See Utah R. App. P. 4(b). If a party does not file a motion recognized by rule 4(b), a party may file a rule 4(e) motion to extend the time to appeal. See Utah R. App. P. 4(e). Rule 4(e) provides that the district court may not consider a motion requesting an extension of time to appeal unless the motion is filed "not later than thirty days after the expiration of the time prescribed by paragraphs (a) and (b) of

this rule." Id. Thus, any request for an extension of time to file an appeal must be filed within sixty days of the final order or judgment to be appealed. See id. R. 4.

On September 9, 2009, the district court entered its final judgment. On October 13, 2009, Tobar filed a rule 60(b) motion to set aside the judgment. The district court denied Tobar's rule 60(b) motion on October 26, 2009. Tobar did not file her notice of appeal until March 15, 2010.<sup>1</sup> Thus, Tobar's notice of appeal is untimely, and this court is required to dismiss the appeal for lack of jurisdiction. See Varian-Eimac, Inc., 767 P.2d at 570.

Accordingly, the appeal is dismissed.

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William A. Thorne Jr., Judge

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J. Frederic Voros Jr., Judge

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Michele M. Christiansen, Judge

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1. The record indicates that on March 15, 2010, Tobar filed a rule 4(e) motion for extension of time to file her appeal. However, the rule 4(e) motion was not timely filed. Thus, the district court could not grant the request for an extension of time to file an appeal. See Utah R. App. P. 4(e).