

[DO NOT PUBLISH]

In the
United States Court of Appeals
For the Eleventh Circuit

No. 23-13154

Non-Argument Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ELMER REED,
a.k.a. Duck,
a.k.a. DW,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Florida

D.C. Docket No. 1:14-cr-20903-DPG-1

Before BRANCH, LAGOA, and BRASHER, Circuit Judges.

PER CURIAM:

Upon review of the record and the government's motion to dismiss, we conclude that this appeal is untimely. Elmer Reed, proceeding *pro se*, seeks review of the district court's June 9, 2015 judgment in his criminal case. To timely seek review of that judgment, he needed to file a notice of appeal by June 23, 2015. *See* Fed. R. App. P. 4(b)(1)(A). He did not file his notice of appeal until September 19, 2023, so it is untimely. *See id.*; Fed. R. App. P. 4(c)(1); *Jeffries v. United States*, 748 F.3d 1310, 1314 (11th Cir. 2014).

And because the government has not forfeited its objection to Reed's untimely appeal and moves to dismiss it as untimely, we must apply the time limits of Federal Rule of Appellate Procedure 4(b). *See United States v. Lopez*, 562 F.3d 1309, 1314 (11th Cir. 2009) (holding that we must apply Rule 4(b)'s 14-day time limit when the government objects to an untimely notice of appeal). Additionally, because Reed filed his notice of appeal more than 30 days after the expiration of the 14-day appeal period, he is not eligible for relief under Rule 4(b)(4). Fed. R. App. P. 4(b)(4) (providing that, upon a finding of excusable neglect or good cause, the district court may extend the time to file a notice of appeal for up to 30 days); *United States v. Ward*, 696 F.2d 1315, 1317-18 (11th Cir. 1983) (noting that we customarily treat a late notice of appeal, filed within the 30 days

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during which an extension is permissible, as a motion for extension of time under Rule 4(b)(4) and remand to the district court).

Accordingly, the government's motion to dismiss this appeal as untimely is GRANTED, and this appeal is DISMISSED.