

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

MAY 04 2012

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

BEGOIA MORGANDE,

Petitioner - Appellant,

v.

JAMES E. TILTON and D. K. SISTO,

Respondents - Appellees.

No. 12-15528

D.C. No. 2:07-cv-01824-MMS
U.S. District Court for Eastern
California, Sacramento

MANDATE

The judgment of this Court, entered April 12, 2012, takes effect this date.

This constitutes the formal mandate of this Court issued pursuant to Rule
41(a) of the Federal Rules of Appellate Procedure.

FOR THE COURT:
Molly C. Dwyer
Clerk of Court

Synitha Walker
Deputy Clerk

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Eastern District of California,
Sacramento

ORDER

Before: PREGERSON, CANBY, and FISHER, Circuit Judges.

A review of the record demonstrates that this court lacks jurisdiction over this appeal because the February 1, 2012 notice of appeal, dated January 26, 2012, was not filed or delivered to prison officials within 30 days after the district court's judgment entered on August 13, 2009. *See* 28 U.S.C. § 2107(a); *United States v. Sadler*, 480 F.3d 932, 937 (9th Cir. 2007) (requirement of timely notice of appeal is jurisdictional). The district court did not abuse its discretion in denying appellant's motion to reopen the time to appeal pursuant to Federal Rule of Appellate Procedure 4(a)(6) because the motion was untimely. *See Nunley v. City of Los Angeles*, 52 F.3d 792, 794 (9th Cir. 1995); *see also* Fed. R. App. P. 4(a)(6)(B) (motion must be filed within 180 days after entry of judgment or within

14 days after receiving notice of entry of judgment, whichever is earlier). To date, appellant has not filed a notice of appeal from the district court's order entered on March 9, 2012. Consequently, this appeal is dismissed for lack of jurisdiction.

DISMISSED.