

IN THE UTAH COURT OF APPEALS

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State of Utah,	)	PER CURIAM DECISION
	)	
Plaintiff and Appellee,	)	Case No. 20110219-CA
v.	)	
	)	F I L E D
Mitchell Tracy Ring,	)	(September 29, 2011)
	)	
Defendant and Appellant.	)	2011 UT App 325

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Third District, Salt Lake Department, 061904488  
The Honorable Robert K. Hilder

Attorneys: Joan C. Watt, Salt Lake City, for Appellant  
Mark L. Shurtleff and Marian Decker, Salt Lake City, for Appellee

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Before Judges Orme, Thorne, and Christiansen.

¶1 Mitchell Tracy Ring appeals his sentence entered on January 21, 2011. This matter is before the court on a motion for summary disposition on the ground that the notice of appeal was not timely filed. We dismiss the appeal for lack of jurisdiction.

¶2 Pursuant to rule 4(a) of the Utah Rules of Appellate Procedure, a notice of appeal “shall be filed with the clerk of the trial court within thirty days after the date of entry of the judgment or order appealed from.” See Utah R. App. P. 4(a). In a criminal case, the sentence constitutes the final, appealable order. See *State v. Bowers*, 2002 UT 100, ¶ 4, 57 P.3d 1065. 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).

¶3 Ring was sentenced on January 21, 2011. Ring's notice of appeal was not filed with the clerk of the trial court until February 25, 2011. Ring concedes that his notice of appeal was not timely filed with the clerk of the trial court as required. However, Ring asserts that he filed the notice of appeal with the clerk of the Utah Court of Appeals.<sup>1</sup> The requirement that a notice of appeal must be filed with the clerk of the trial court within thirty days is jurisdictional and such requirement may not be suspended. *See* Utah R. App. P. 2. Because Ring's notice of appeal was not timely filed with the clerk of the trial court, this court is required to dismiss the appeal.<sup>2</sup> *See Varian-Eimac, Inc.*, 767 P.2d at 570.

¶4 Accordingly, this appeal is dismissed.

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Gregory K. Orme, Judge

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William A. Thorne Jr., Judge

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Michele M. Christiansen, Judge

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<sup>1</sup>Rule 4(g) of the Utah Rules of Appellate Procedure is inapplicable. Assuming that Ring timely deposited his notice of appeal in the jail's mailing system, he did not timely mail his notice of appeal to the clerk of the trial court as required.

<sup>2</sup>Ring may pursue a motion to reinstate the time period for filing a direct appeal in the district court. *See* Utah R. App. P. 4(f).