

IN THE UTAH COURT OF APPEALS

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State of Utah,)	PER CURIAM DECISION
)	
Plaintiff and Appellee,)	Case No. 20110603-CA
)	
v.)	F I L E D
)	(September 15, 2011)
Derek Kyle Boswell,)	
)	
Defendant and Appellant.)	2011 UT App 315

Fifth District, St. George Department, 081502160
The Honorable G. Rand Beacham

Attorneys: Derek Kyle Boswell, Hurricane, Appellant Pro Se
Mark L. Shurtleff and Marian Decker, Salt Lake City, for Appellee

Before Judges McHugh, Thorne, and Christiansen.

¶1 Derek Kyle Boswell seeks to appeal his plea-based convictions for possession of a controlled substance and failure to respond to a police officer. This matter is before the court on its own motion for summary disposition based upon lack of jurisdiction due to Boswell’s failure to file a timely notice of appeal. *See* Utah R. App. P. 4(a). Boswell did not file a response to the court’s motion.

¶2 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.

¶3 Boswell entered pleas of guilty on February 26, 2009. The court entered Boswell's sentence March 17, 2009. Therefore, if Boswell wished to appeal his sentence, he was required to file his notice of appeal within thirty days of that date. However, Boswell did not file his pro se notice of appeal until July 8, 2011. Thus, the notice of appeal was untimely. Because Boswell did not timely file his notice of appeal, this court lacks jurisdiction to hear the appeal and has no choice but to dismiss it. *See Varian-Eimac, Inc. v. Lamoreaux*, 767 P.2d 569, 570 (Utah Ct. App. 1989).

¶4 The appeal is dismissed.

Carolyn B. McHugh,
Associate Presiding Judge

William A. Thorne Jr., Judge

Michele M. Christiansen, Judge