

IN THE UTAH COURT OF APPEALS

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State of Utah,)	MEMORANDUM DECISION
)	(Not For Official Publication)
Plaintiff and Appellee,)	
)	Case No. 20090692-CA
v.)	
)	F I L E D
Ike Everson Jr.,)	(November 27, 2009)
)	
Defendant and Appellant.)	2009 UT App 352

Third District, Salt Lake Department, 991905953
The Honorable Vernice Trease

Attorneys: Ike Everson Jr., Draper, Appellant Pro Se
Mark L. Shurtleff and Kris C. Leonard, Salt Lake
City, for Appellee

Before Judges Greenwood, Orme, and Thorne.

PER CURIAM:

Ike Everson Jr. filed a notice of appeal in his criminal case alleging that the victim and a witness recanted their statements that supported his conviction. This matter is before the court on its own motion for summary disposition based upon lack of jurisdiction due to Everson's failure to file a timely notice of appeal. See Utah R. App. P. 4(a).

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.

The district court sentenced Everson on December 21, 1999. Everson filed a notice of appeal on August 21, 2009, nearly ten years after his sentence was entered, alleging that the victim and a witness had recanted their allegations. Everson's attempt to seek a direct appeal of his conviction in this court nearly ten years after his conviction is untimely. Because Everson did not timely file his notice of appeal, this court lacks jurisdiction to hear the appeal and must dismiss. See Varian-

Eimac, Inc. v. Lamoreaux, 767 P.2d 569, 570 (Utah Ct. App. 1989)
(stating that if the court lacks jurisdiction over an appeal, it
has only the authority to dismiss the action).

The appeal is dismissed.

Pamela T. Greenwood,
Presiding Judge

Gregory K. Orme, Judge

William A. Thorne Jr., Judge