

IN THE UTAH COURT OF APPEALS

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Tony Alexander Hamilton,)	MEMORANDUM DECISION
)	(Not For Official Publication)
Petitioner and Appellant,)	
)	Case No. 20090300-CA
v.)	
)	F I L E D
A. Chuck Bigelow, Warden,)	(October 29, 2009)
)	
Respondent and Appellee.)	2009 UT App 312

Fifth District, Beaver Department, 070500076
The Honorable G. Michael Westfall

Attorneys: Tony Alexander Hamilton, Draper, Appellant Pro Se

Before Judges Greenwood, Bench, and Davis.

PER CURIAM:

Tony Alexander Hamilton appeals from the district court's order denying his petition for writ of habeas corpus.

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." Utah R. App. P. 4(a). 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 entered its order denying Hamilton's petition for writ of habeas corpus on December 3, 2008. Thus, Hamilton was required to file his notice of appeal on or before January 2, 2009. However, Hamilton did not file his notice of appeal until April 9, 2009. Because Hamilton 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

Russell W. Bench, Judge

James Z. Davis, Judge