

IN THE UTAH COURT OF APPEALS

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| State of Utah,           | ) | MEMORANDUM DECISION   |
|                          | ) | (Not For Official Publication)  |
| Plaintiff and Appellee,  | ) |   |
|                          | ) | Case No. 20090878-CA  |
| v.                       | ) |   |
|                          | ) | F I L E D   |
| James Michael Jensen     | ) | (June 24, 2010)   |
|                          | ) |   |
| Defendant and Appellant. | ) | <span style="border: 1px solid black; padding: 2px;">2010 UT App 172</span> |

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Third District, Salt Lake Department, 091901968  
The Honorable Paul G. Maughan

Attorneys: Linda M. Jones, Salt Lake City, for Appellant  
Mark L. Shurtleff and Marian Decker, Salt Lake City,  
for Appellee

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Before Judges Davis, McHugh, and Roth.

PER CURIAM:

James Michael Jensen appeals his sentence entered on August 7, 2009. This matter is before the court on a sua sponte motion for summary disposition. We dismiss the appeal for lack of jurisdiction.

Pursuant to rule 4(a) of the Utah Rules of Appellate Procedure, a notice of appeal must be filed within thirty days of the entry of the final order or judgment appealed. See Utah R. App. P. 4(a). In an appeal taken from a criminal conviction and sentence, "it is the sentence itself which constitutes a final judgment from which the appellant has the right to appeal." State v. Gerrard, 584 P.2d 885, 886 (Utah 1979). The time for appeal may be extended by certain motions identified in rule 4(b) of the Utah Rules of Appellate Procedure. See Utah R. App. P. 4(b). 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 this court lacks jurisdiction over an appeal, we have only the authority to dismiss the appeal. See Varian-Eimac, Inc. v. Lamoreaux, 767 P.2d 569, 570 (Utah Ct. App. 1989).

Jensen was sentenced on August 7, 2009. Thus, his notice of appeal was required to have been filed on or before September 7, 2009. See Utah R. App. P. 4(a); see also Gerrard, 584 P.2d at 886. Jensen did not file his notice of appeal until October 22, 2009. Jensen's time for appeal was not extended by the filing of a postjudgment motion recognized by rule 4(b) of the Utah Rules of Appellate Procedure. Thus, because Jensen's notice of appeal was not timely filed, this court lacks jurisdiction and we are required to dismiss the appeal. See Varian-Eimac, 767 P.2d at 570.

Accordingly, the appeal is dismissed.

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James Z. Davis,  
Presiding Judge

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Carolyn B. McHugh,  
Associate Presiding Judge

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Stephen L. Roth, Judge