

IN THE UTAH COURT OF APPEALS

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State of Utah,)	MEMORANDUM DECISION
)	(Not For Official Publication)
Plaintiff and Appellee,)	
)	Case No. 20080382-CA
v.)	
)	F I L E D
Edgardo Mata,)	(July 25, 2008)
)	
Defendant and Appellant.)	2008 UT App 291

Fourth District, Provo Department, 991400190
The Honorable Gary D. Stott

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

Before Judges Bench, Davis, and Orme.

PER CURIAM:

Edgardo Mata appeals from the district court's denial of his motion for a declaration of a misplea and motion made pursuant to rule 22(e) of the Utah Rules of Criminal Procedure. This case is before the court on its own motion for summary disposition based upon lack of jurisdiction due to Mata'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 entered its order denying Mata's motion on March 19, 2008. Therefore, Mata was required to file his notice of appeal by April 21, 2008.¹ Mata did not file a notice

¹Because Mata is an inmate confined in an institution, his notice of appeal would have been deemed timely filed if he
(continued...)

of appeal until May 2, 2008. Thus, the notice of appeal was untimely. Mata asserts that the motion was not untimely because he filed a motion for reconsideration, which had not yet been resolved at the time he filed his notice of appeal. However, motions to reconsider are not recognized by the Utah Rules of Criminal Procedure and do not toll the time for filing a notice of appeal. See Gillett v. Price, 2006 UT 24, ¶ 7, 135 P.3d 861. Because Mata 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.

Russell W. Bench, Judge

James Z. Davis, Judge

Gregory K. Orme, Judge

¹(...continued)
deposited the notice of appeal in the prison's internal mail system on or before April 21, 2008. See Utah R. App. P. 4(g). However, Mata failed to file a notarized statement or written declaration demonstrating that he had complied with this rule. See id.