

IN THE UTAH COURT OF APPEALS

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State of Utah,)	MEMORANDUM DECISION	
)	(Not For Official Publication)	
Plaintiff and Appellee,)		
)	Case No. 20060933-CA	
v.)		
)	F I L E D	
Kenneth Ray Underwood,)	(February 8, 2007)	
)		
Defendant and Appellant.)	<table border="1"><tr><td>2007 UT App 37</td></tr></table>	2007 UT App 37
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Second District, Ogden Department, 041906660
The Honorable Parley R. Baldwin

Attorneys: Randall W. Richards, Ogden, for Appellant
Mark L. Shurtleff and Kris C. Leonard, Salt Lake
City, for Appellee

Before Judges Bench, McHugh, and Thorne.

PER CURIAM:

Kenneth Ray Underwood appeals his convictions for burglary and theft. This case is before the court on its own motion for summary disposition based upon lack of jurisdiction due to the 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 sentence, judgment, and commitment on November 3, 2005. Underwood did not file a notice of appeal until October 11, 2006, approximately ten months beyond the time limitation set forth in rule 4(a). See Utah R. App. P. 4(a). Because Underwood 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,
Presiding Judge

Carolyn B. McHugh, Judge

William A. Thorne Jr., Judge