

UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

United States v. King

No. No. 20-1234, United States Court of Appeals for the Tenth Circuit (January 26, 2021)

SUMMARY

In this unpublished Tenth Circuit decision, the court dismissed as untimely Eric King's appeal of a district court order denying his motion to amend his pretrial detention order. King filed his notice of appeal more than fourteen days after the detention order, missing the deadline under Federal Rule of Appellate Procedure 4(b)(1)(A)(i). Although Rule 4(b)(1)(A) is a non-jurisdictional claim-processing rule, the government properly invoked it, requiring dismissal of the untimely appeal. The case addresses the inflexibility of the 14-day appeal period for detention orders and the distinction between jurisdictional and claim-processing rules.

CASE DETAILS

COURT	United States Court of Appeals for the Tenth Circuit
WRITING FOR THE COURT	BRISCOE; LUCERO; MATHESON
JURISDICTION	Federal
DECIDED	January 26, 2021
DOCKET	No. 20-1234
DISPOSITION	dismissed
PROCEDURAL POSTURE	Appeal from the district court's denial of a motion to reconsider a detention order.
PRECEDENTIAL VALUE	unpublished
PARTIES	Eric King v. United States of America

TOPICS

- criminal procedure
- appellate procedure
- preservation of error

QUESTIONS PRESENTED

1. Whether the appeal of the April 2020 detention order was timely filed under Federal Rule of Appellate Procedure 4(b)(1)(A)(i).

HOLDINGS

1. The appeal of the April 2020 detention order is untimely because it was not filed within fourteen days as required by Fed. R. App. P. 4(b)(1)(A)(i).

KEY QUOTATIONS

“Because Rule 4(b)(1)(A) is a claim-processing rule, King’s failure to file a timely notice of appeal does not affect our jurisdiction.”

“Although Rule 4(b)(1)(A) is not jurisdictional, it is inflexible, assuring relief to a party who properly raises it.”

“The government properly invoked the rule, so we must dismiss this appeal as untimely.”

FACTUAL BACKGROUND

Eric King is detained pending trial on a criminal charge. He filed a motion with the district court seeking a hearing and amendment of his detention order. The district court denied the motion in April 2020. King then had fourteen days to appeal the detention order under Fed. R. App. P. 4(b)(1)(A)(i). That deadline passed without him filing a notice of appeal. Several weeks later, he filed a motion asking the district court to reconsider its detention order, which was denied. Then he filed a notice of appeal declaring his intent to appeal the reconsideration order. His memorandum brief, however, challenges only the April 2020 detention order.

PROCEDURAL HISTORY

Eric King is detained pending trial. He filed a motion with the district court seeking a hearing and amendment of his detention order. The district court denied the motion in April 2020. King then had fourteen days to appeal, but did not file a timely notice of appeal. He later filed a motion to reconsider, which was denied, and then appealed that denial. His memorandum brief challenges only the April 2020 detention order.

DISPOSITION

dismissed

CASES CITED

- United States v. Garduño, 506 F.3d 1287 (10th Cir. 2007)

OPINION

PER CURIAM.

FILED United States Court of Appeals UNITED STATES COURT OF APPEALS Tenth Circuit
FOR THE TENTH CIRCUIT January 26, 2021 _____
Christopher M. Wolpert Clerk of Court UNITED STATES OF AMERICA, Plaintiff - Appellee, v.
No. 20-1234 (D.C. No. 1:19-CR-00257-WJM-1) ERIC KING, (D. Colo.) Defendant - Appellant.

ORDER AND JUDGMENT *

Before BRISCOE, LUCERO, and MATHESON, Circuit

Judges. _____ Eric King is detained pending trial on a criminal charge.

He filed a motion with the district court seeking a hearing and amendment of his detention order. The district court denied the motion in April 2020. King then had fourteen days to appeal the detention order. See Fed. R. App. P. 4(b)(1)(A)(i). That deadline came and went without him filing a notice of appeal. Several weeks later, he unsuccessfully filed a motion asking the district court to reconsider its detention order.

Then he filed a * After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist in the determination of this appeal. See Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G).

The case is therefore ordered submitted without oral argument. This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1. notice of appeal, declaring his intent to appeal the reconsideration order.

His memorandum brief, however, challenges only the April 2020 detention order. His appeal of that order is untimely. See *id.* Because Rule 4(b)(1)(A) is a claim-processing rule, King's failure to file a timely notice of appeal does not affect our jurisdiction. See *United States v. Garduño*, 506 F.3d 1287, 1290–91 (10th Cir. 2007).

Although Rule 4(b)(1)(A) is not jurisdictional, it is inflexible, assuring relief to a party who properly raises it. *Garduño*, 506 F.3d at 1291. The government properly invoked the rule, so we must dismiss this appeal as untimely. See *id.* at 1292.

The appeal is dismissed. Entered for the Court Per Curiam 2