

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In this unpublished Tenth Circuit decision, the court dismissed as untimely Eric King's appeal of a district court order denying his motion to amend his pretrial detention order.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.

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 This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral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