

20-35590

Kaon-Jabbar East El  
# 5  
4788 North Lombard St.  
Portland, OR 97203

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

FILED

MAR 29 2021

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

KAON-JABBAR EAST EL,

No. 20-35590

Plaintiff-Appellant,

D.C. No. 3:19-cv-00333-SI  
District of Oregon,  
Portland

v.

UNITED PARCEL SERVICE, INC.,

ORDER

Defendant-Appellee.

Before: W. FLETCHER, BERZON, and BYBEE, Circuit Judges.

Appellant has filed a combined motion for reconsideration and motion for reconsideration en banc (Docket Entry No. 17).

The motion for reconsideration is denied and the motion for reconsideration en banc is denied on behalf of the court. *See* 9th Cir. R. 27-10; 9th Cir. Gen. Ord. 6.11.

No further filings will be entertained in this closed case.

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Plaintiff-Appellant,

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Portland

UNITED PARCEL SERVICE, INC.,

ORDER

Defendant-Appellee.

Before: W. FLETCHER, BERZON, and BYBEE, Circuit Judges.

A review of the record and the parties' responses to the July 6, 2020 order to show cause demonstrates that this court lacks jurisdiction over this appeal. A notice of appeal is considered filed on the date it was received by the district court.

*See* Fed. R. App. P. 4(a)(1)(A) ("notice of appeal required by Rule 3 must be filed with the district clerk within 30 days after entry of the judgment or order appealed from"); *Klemm v. Astrue*, 543 F.3d 1139, 1142 (9th Cir. 2008) ("As a general rule, a notice of appeal is considered filed at the time the clerk receives the document.").

Appellant's notice of appeal was received by the district court on June 26, 2020.

The notice of appeal was therefore not timely filed within 30 days after the district court's judgment entered on May 22, 2020. *See* 28 U.S.C. § 2107(a); *United States v. Sadler*, 480 F.3d 932, 937 (9th Cir. 2007) (requirement of timely notice of appeal is jurisdictional); *see also Pettibone v. Cupp*, 666 F.2d 333, 335 (9th Cir.

1981) (Fed. R. App. P. 4(a)(5) expressly requires filing of motion for extension of time to file notice of appeal and language of Rule precludes court from remanding on theory that untimely notice of appeal might be considered motion for extension of time). Consequently, this appeal is dismissed for lack of jurisdiction.

All pending motions are denied as moot.

**DISMISSED.**

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

**KAON-JABBAR EAST EL,**

Plaintiff,

v.

**UNITED PARCEL SERVICE, INC.,**

Defendant.

Case No. 3:19-cv-333-SI

**JUDGMENT**

Based on the Court's OPINION AND ORDER,

**IT IS ADJUDGED** that this case is DISMISSED.

DATED this 22nd day of May, 2020.

/s/ Michael H. Simon

Michael H. Simon  
United States District Judge

THURSDAY, MARCH 19, 2020

**ORDER**

In light of the ongoing public health concerns relating to COVID-19, the following shall apply to cases prior to a ruling on a petition for a writ of certiorari:

**IT IS ORDERED** that the deadline to file any petition for a writ of certiorari due on or after the date of this order is extended to 150 days from the date of the lower court judgment, order denying discretionary review, or order denying a timely petition for rehearing. See Rules 13.1 and 13.3.

**IT IS FURTHER ORDERED** that motions for extensions of time pursuant to Rule 30.4 will ordinarily be granted by the Clerk as a matter of course if the grounds for the application are difficulties relating to COVID-19 and if the length of the extension requested is reasonable under the circumstances. Such motions should indicate whether the opposing party has an objection.

**IT IS FURTHER ORDERED** that, notwithstanding Rules 15.5 and 15.6, the Clerk will entertain motions to delay distribution of a petition for writ of certiorari where the grounds for the motion are that the petitioner needs additional time to file a reply due to difficulties relating to COVID-19. Such motions will ordinarily be granted by the Clerk as a matter of course if the length of the extension requested is reasonable under the circumstances and if the motion is actually received by the Clerk at least two days prior to the relevant distribution date. Such motions should indicate whether the opposing party has an objection.

**IT IS FURTHER ORDERED** that these modifications to the Court's Rules and practices do not apply to cases in which certiorari has been granted or a direct appeal or original action has been set for argument.

These modifications will remain in effect until further order of the Court.

**MONDAY, JULY 19, 2021**

**ORDER**

**IT IS ORDERED** that the Court's orders of March 19, 2020 and April 15, 2020 relating to COVID-19 are rescinded, subject to the clarifications set forth below.

**IT IS FURTHER ORDERED** that, in any case in which the relevant lower court judgment, order denying discretionary review, or order denying a timely petition for rehearing was issued prior to July 19, 2021, the deadline to file a petition for a writ of certiorari remains extended to 150 days from the date of that judgment or order. In any case in which the relevant lower court judgment, order denying discretionary review, or order denying a timely petition for rehearing was issued on or after July 19, 2021, the deadline to file a petition for a writ of certiorari is as provided by Rule 13.

**IT IS FURTHER ORDERED** that the requirement of Rule 33.1 that 40 copies of documents be submitted in booklet format will go back into effect as to covered documents filed on or after September 1, 2021. For submissions pursuant to Rule 33.2, the requirement of Rule 39 that an original and 10 copies be submitted, where applicable, will also go back into effect as to covered documents filed on or after September 1, 2021. The authorization to file a single copy of certain documents on 8½ x 11 inch paper, as set forth in the Court's April 15, 2020 order, will remain in effect only as to documents filed before September 1, 2021.

**IT IS FURTHER ORDERED** that the following types of documents should not be filed in paper form if they are submitted through the Court's electronic filing system:

(1) motions for an extension of time under Rule 30.4; (2) waivers of the right to respond to a

petition under Rule 15.5; and (3) blanket consents to the filing of amicus briefs under Rules 37.2(a) and 37.3(a). Notwithstanding Rule 34.6 and paragraph 9 of the Guidelines for the Submission of Documents to the Supreme Court's Electronic Filing System, these enumerated filings should be filed electronically in cases governed by Rule 34.6, although other types of documents in those cases should be filed in paper form only.