

The government filed a motion to dismiss for Moberly's failure to file a timely notice of appeal. However, when a criminal defendant files a notice of appeal "after the fourteen-day appeal period but within the next thirty days" and the district court finds "excusable neglect or good cause" pursuant to Rule 4(b)(4), it may treat the notice of appeal as a request for an extension of

time to file an appeal. *Payton*, 979 F.3d at 390. So by an earlier order, we deferred ruling on the government's motion to dismiss and remanded for the district court to determine whether Moberly's untimely filing was due to excusable neglect or good cause. On remand, the district court determined that Moberly had not demonstrated that circumstances beyond his control affected his ability to file a timely notice. The district court therefore denied his request for an extension.

The deadline for a defendant to file a notice of appeal under Rule 4(b)(1)(A) is not jurisdictional. See *Payton*, 979 F.3d at 390; *United States v. Brown*, 817 F.3d 486, 489 (6th Cir. 2016); *United States v. Gaytan-Garza*, 652 F.3d 680, 681 (6th Cir. 2011) (per curiam). But it is a mandatory claims-processing rule; if the government raises the issue of timeliness, we must enforce the deadline. See *Payton*, 979 F.3d at 390; *Gaytan-Garza*, 652 F.3d at 681. The government has properly raised the timeliness issue by filing a motion to dismiss.

Moberly's failure to file a timely notice of appeal deprives this court of jurisdiction. It is therefore ordered that the government's motion to dismiss is **GRANTED** and this appeal is **DISMISSED**.

ENTERED BY ORDER OF THE COURT



Deborah S. Hunt, Clerk