
Appendix 1a
Court of Appeals Judgment

United States Court of Appeals For the First Circuit

Nos. 22-1800
22-1801

UNITED STATES,

Appellee,

v.

CARLOS ENRIQUE LÓPEZ-SOTO, a/k/a Chemito,

Defendant - Appellant.

Before

Barron, Chief Judge,
Kayatta and Montecalvo, Circuit Judges.

JUDGMENT

Entered: March 22, 2024

In these appeals, defendant-appellant seeks to challenge the district court's denial of "motion[s] to dismiss" in the underlying criminal matters. Appellant filed the operative notices of appeal nearly a year after the district court's denial of his "motion[s] to dismiss." Thus, this court entered an order to show cause flagging timeliness concerns. See generally Fed. R. App. P. 4(b). Defendant-appellant has responded to that order. The government also has responded and moves to dismiss the appeals as untimely.

"The basic rule regarding time limits for criminal appeals is that 'a defendant's notice of appeal must be filed in the district court within 14 days after . . . the entry of either the judgment or the order being appealed.'" United States v. Gonzalez-Rodriguez, 777 F.3d 37, 40 (1st Cir. 2015) (quoting Fed. R. App. P. 4(b)(1)(A)). Rule 4(b)(4) allows for extensions under certain circumstances, but any extension must "not [] exceed 30 days from the expiration of the time otherwise prescribed by" Rule 4(b). The foregoing generally applies even where the defendant represents that he did not receive timely notice of the district court's ruling. See United States v. Rapoport, 159 F.3d 1 (1st Cir. 1998); see also Fed. R. Crim. P. 49(d) ("Except as Federal Rule of Appellate Procedure 4(b) provides otherwise, the clerk's failure to give notice does not affect the time to appeal, or relieve--or authorize the court to relieve--a party's failure to appeal within the

allowed time."). The time limit set out at Rule 4(b)(1)(A) is a non-jurisdictional claims-processing rule, but its application is mandatory when invoked by the government. See Gonzalez-Rodriguez, 777 F.3d at 40; United States v. Reyes-Santiago, 804 F.3d 453, 458 (1st Cir. 2015) (treating Rule 4(b)(1)(A) as a non-jurisdictional claims-processing rule).

After careful review of the record, we conclude that the appeals are untimely and that dismissal therefore is in order. The government's motion to dismiss is granted. In light of the foregoing, defendant-appellant's motion for appointment of counsel is denied. We express no opinion at this time as to whether defendant-appellant may challenge the district court's denial of his "motion[s] to dismiss" via the other appeals he currently has pending in this court. All remaining pending motions, to the extent not mooted by the foregoing, are denied.

DISMISSED. See 1st Cir. R. 27.0(c).

By the Court:

Maria R. Hamilton, Clerk

cc:

José A. Ruiz-Santiago
Victor O. Acevedo-Hernández,
José Capó-Iriarte
Ginette Louise Milanés
Mariana E. Bauzá-Almonte
Alberto R. López Rocafort
Kelly Zenon-Matos
Nicholas Warren Cannon
Alexander Louis Alum
Marie Christine Amy
Carlos Enrique López-Soto
Edwin Giovannie Mercado

Appendix 2a
Clerk's Direction to the Government

United States Court of Appeals For the First Circuit

No. 22-1800

UNITED STATES,

Appellee,

v.

CARLOS ENRIQUE LÓPEZ-SOTO, a/k/a Chemito,

Defendant - Appellant.

ORDER OF COURT

Entered: November 22, 2022

Pursuant to 1st Cir. R. 27.0(d)

Upon review of the record in this case, it appears that defendant's notice of appeal filed on October 13, 2022 in No. 3:14-cr-00415-DRD-1 (D.P.R.) from the order entered on November 8, 2021 is late. See Fed. R. App. P. 4(b) (notice of appeal in criminal case must be filed within fourteen days after the entry of the judgment or order appealed). The time to file a notice of appeal within the limits set forth in Fed. R. App. P. 4(b)(1)(A) expired on November 22, 2021. Although a district court may extend the time for filing a notice of appeal by up to 30 additional days upon a showing of excusable neglect or good cause, see Fed. R. App. P. 4(b)(4), the district court does not have authority to extend the time to appeal beyond that point. See Fed. R. App. P. 26(b)(1).

On or before **December 6, 2022**, both parties are directed to file a response addressing whether the appeal should be dismissed as untimely. See United States v. Reyes-Santiago, 804 F.3d 453, 458 (1st Cir. 2015) (holding that Rule 4(b)'s time limits are not "mandatory and jurisdictional" in the absence of a timely objection from the government); United States v. Gonzalez-Rodriguez, 777 F.3d 37, 40-43 (1st Cir. 2015) (dismissing appeal as untimely where notice of appeal was filed outside 14-day period).

By the Court:

Maria R. Hamilton, Clerk

cc:

José A. Ruíz-Santiago

Victor O. Acevedo-Hernandez