

JUN 20 2018

IN THE UTAH COURT OF APPEALS

<p>MATTHEW WINTERS, Appellant, <i>v.</i> WEST JORDAN CITY AND UTAH STATE RECORDS COMMITTEE, Appellees.</p>	<p>ORDER OF SUMMARY DISMISSAL</p> <p>Case No. 20180331-CA</p>
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Before Judges Hagen, Toomey, and Orme.

Matthew Winters appeals the district court's dismissal of his action without prejudice due to his failure to timely serve the defendants to the action. This matter is before the court on West Jordan City and Utah State Records Committee's motion for summary disposition on the basis that this court lacks jurisdiction due to Winters's failure to timely file a notice of appeal.

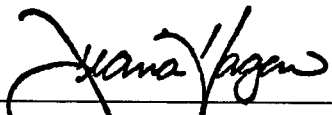
A notice of appeal must be filed "with the clerk of the trial court within 30 days after the date of entry of the judgment or order appealed from." *Id.* The thirty-day time period for filing a notice of appeal commences on the date that the judgment is entered, regardless of the date that the parties receive notice of the entry of the judgment. *See Workman v. Nagle Constr., Inc.*, 802 P.2d 749, 751 (Utah Ct. App. 1990). Moreover, because the notice of appeal must be filed within thirty days of entry of the appealable order, not from service of that order, the three-day mailing rule contained in rule 6 of the Utah Rules of Civil Procedure is not applicable. *Cf. State v. Palmer*, 777 P.2d 521, 522 (Utah Ct. App. 1989) (per curiam). If an appeal is not timely filed, this court lacks jurisdiction to hear the appeal and must dismiss. *See Serrato v. Utah Transit Auth.*, 2000 UT App 299, ¶ 7, 13 P.3d 616.

The district court entered its final order on March 23, 2018. Therefore, if Winters wished to appeal the judgment, he was required to file his notice of appeal on or before April 23, 2018. But, the notice of appeal was not filed with the district court until April 25, 2018. Accordingly, this court lacks jurisdiction to hear the appeal because it is untimely and we have no choice but to dismiss it. *See Varian-Eimac, Inc. v. Lamoreaux*, 767 P.2d 569, 570 (Utah Ct. App. 1989).

IT IS HEREBY ORDERED that the appeal is dismissed.

Dated this 20 day of June, 2018.

FOR THE COURT:



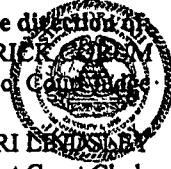
Diana Hagen, Judge

The Order of the Court is stated below:

Dated: March 23, 2018

08:43:44 AM

At the direction of
/s/ PATRICK CORUM
District Court Judge
by
/s/ CHERI LINDSLEY
District Court Clerk



3RD DISTRICT COURT - SALT LAKE
SALT LAKE COUNTY, STATE OF UTAH

MATTHEW WINTERS,
Plaintiff,

vs.

WEST JORDAN CITY,
Defendant.

: RULING
: ORDER OF DISMISSAL
:
: Case No: 170906014
: Judge: PATRICK CORUM
: Date: March 23, 2018

Based on a review of this file and Rule 4(b) Utah Rules of Civil Procedure, the Court orders this case be dismissed, without prejudice, for failure to serve the defendant within 120 days of filing the Complaint. This is the final order of the court. No further order is required

End Of Order - Signature at the Top of the First Page

CERTIFICATE OF NOTIFICATION

I certify that a copy of the attached document was sent to the following people for case 170906014 by the method and on the date specified.

MAIL: MATTHEW WINTERS P.O. BOX 1301 WEST JORDAN, UT 84084

03/23/2018

/s/ CHERI LINDSLEY

Date: _____

Deputy Court Clerk

The Order of the Court is stated below:

Dated: October 02, 2018
09:22:43 AM

/s/ Thomas R. Lee
Associate Chief Justice



IN THE SUPREME COURT OF THE STATE OF UTAH

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Matthew Winters,
Petitioner,
v.
West Jordan City;
and State Records Committee,
Respondents.

ORDER

Supreme Court No. 20180566-SC

Court of Appeals No. 20180331-CA

Trial Court No. 170906014

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This matter is before the Court upon a Petition for Writ of Certiorari, filed on July 20, 2018.

IT IS HEREBY ORDERED that the Petition for Writ of Certiorari is denied.

End of Order - Signature at the Top of the First Page