

PUBLISH

UNITED STATES COURT OF APPEALS  
FOR THE TENTH CIRCUIT

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Filed 2/28/96

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff-Appellee, )  
 )  
 v. ) No. 95-5180  
 )  
 CHARLES SAMUEL LANGHAM, )  
 )  
 Defendant-Appellant. )

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Appeal from the United States District Court for  
the Northern District of Oklahoma  
(D.C. No. 90-CR-103-C)

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James L. Swartz, Assistant United States Attorney, Tulsa, Oklahoma  
for Plaintiff-Appellee.  
Charles Langham, pro se.

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Before ANDERSON, TACHA, and KELLY.

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After examining the briefs and appellate record, this panel has determined that oral argument would not materially assist the determination of this appeal. *See* Fed. R. App. P. 34(a); 10th Cir. R. 34.1.9. The case is therefore ordered submitted without oral argument.

The defendant was convicted of various drug offenses following a guilty plea in July 1991. The conviction and sentence were affirmed on direct appeal in April 1993. On March 23, 1995, the defendant filed a motion for the transcripts of his sentencing hearing at government expense, contending that he needed the transcripts to prepare a post-conviction motion pursuant to 28 U.S.C. § 2255. That motion was denied on July 31 and the notice of appeal was filed on August 21. The defendant has not filed any collateral proceedings challenging this conviction.

We lack jurisdiction because the notice of appeal was untimely. *See* Fed. R. App. P. 4(b); United States v. Lanier, 604 F.2d 1157, 1159-60 (8th Cir. 1979).

A timely notice of appeal is both mandatory and jurisdictional. Browder v. Director, Dept. of Corrections, 434 U.S. 257, 264 (1978).

Accordingly, this appeal is DISMISSED.