

December 8, 2010

UNITED STATES COURT OF APPEALS
TENTH CIRCUIT

Elisabeth A. Shumaker
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DANNY LEE GREEN,

Defendant - Appellant.

No. 10-6122
(D. Ct. No. 5:89-CR-00103-F-4)
(W.D. Okla.)

ORDER AND JUDGMENT*

Before **BRISCOE**, Chief Circuit Judge, **TACHA**, and **O'BRIEN**, Circuit Judges.

After examining the briefs and the appellate record, this three-judge panel has determined unanimously that oral argument would not be of material assistance in the determination of this appeal. See Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument.

In 1989, Danny Lee Green pleaded guilty in federal district court to nine criminal counts relating to a heroin distribution conspiracy. He was sentenced to concurrent sentences of twenty years each on two of the counts and thirty years each on the

*This order and judgment is not binding precedent except under the doctrines of law of the case, res judicata and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

remaining seven counts. In the twenty-two years since that time, Mr. Green has submitted myriad filings challenging his convictions and sentences. Most relevant to this appeal, on March 2, 2010, he submitted a “Motion to Invoke Supervisory Powers to Dismiss the Indictment for Lack of Subject Matter Jurisdiction Under Title 18 USCS 3582 and 3553a.” The district court denied the motion as untimely on March 3. On April 30, he filed a “Motion to Amend to the Above Pending Certified Mail Dated February 18, 2010, and Notice that the Government Violated Title 18 USCS § 1623 et. seq.,” which the district court denied as incomprehensible on May 6.

On May 17, Mr. Green filed in the district court a “Notice to File Informal Pro-Se Appeal Brief,” which was transferred to this court and assigned case number 10-6122. On May 27, Mr. Green filed in the district court an “Amended Notice of Appeal.” Both notices, while referring in their headings to the district court’s order of May 6, make clear in their bodies that they relate to the district court’s order of March 3.

The notices are both untimely, as they were filed more than fourteen days after the entry of the order being appealed and there has not been any showing of excusable neglect or good cause justifying an extension of time. *See* Fed. R. App. P. 4(b). Accordingly, we cannot exercise jurisdiction over this appeal. *See United States v. Smith*, 182 F.3d 733, 734 (10th Cir. 1999).

For these reasons, the appeal is DISMISSED. Additionally, Mr. Green’s Motion to Amend Too Pending Pro-Se Appeal and his Motion to Re-Instate Motion for Appointment of Counsel, both of which request appointed counsel for this appeal, are

DENIED as moot.

ENTERED FOR THE COURT,

Deanell Reece Tacha
Circuit Judge