

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 20-11174-E

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

MARK STEVEN HIRMER,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of Florida

Before: MARTIN, JORDAN and BRANCH, Circuit Judges.

BY THE COURT:

The government's motion to dismiss the appeal as untimely and duplicative, which is incorporated in its response to our jurisdictional question, is GRANTED. Mark Steven Hirmer's notice of appeal, deemed filed on February 14, 2020, is untimely to appeal from the district court's November 16, 2010 amended judgment. *See* Fed. R. App. P. 4(b)(1)(A), (c)(1)(A)(ii); *see also* *Jeffries v. United States*, 748 F.3d 1310, 1314 (11th Cir. 2014). Because the government has raised the issue of timeliness, "we must apply the time limits of Rule 4(b)." *United States v. Lopez*, 562 F.3d 1309, 1313-14 (11th Cir. 2009). Additionally, this appeal is duplicative of Hirmer's original direct appeal in Appeal No. 10-15253. *See* *United States v. Arlt*, 567 F.2d 1295, 1297 (5th Cir. 1978) (stating that an "[a]ppellant is not entitled to two appeals"); *see also* *I.A. Durbin, Inc. v. Jefferson Nat'l Bank*, 793 F.2d 1541, 1551 (11th Cir. 1986) (stating that a new action is duplicative

where the parties, issues, and available relief are substantially the same); *Firestone Tire & Rubber Co. v. Risjord*, 449 U.S. 368, 374 (1981) (stating that a party “must ordinarily raise all claims of error in a single appeal following final judgment on the merits”); *Colo. River Water Conservation Dist. v. United States*, 424 U.S. 800, 817-18 (1976) (explaining that a federal court has inherent administrative power to dismiss duplicative litigation).

Accordingly, this appeal is hereby DISMISSED. All other pending motions are DENIED as MOOT.