

NOT RECOMMENDED FOR PUBLICATION

No. 20-1762

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED
Jan 28, 2021
DEBORAH S. HUNT, Clerk

UNITED STATES OF AMERICA,)
)
Plaintiff-Appellee,)
)
v.)
FARID FATA,)
Defendant-Appellant.)
)
)

ON APPEAL FROM THE UNITED
STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF
MICHIGAN

ORDER

Before: DAUGHTREY, McKEAGUE, and THAPAR, Circuit Judges.

On July 10, 2020, the district court entered an order denying Farid Fata’s motion for compassionate release or a reduction of his sentence under 18 U.S.C. § 3582(c)(1)(A). Under Federal Rule of Appellate Procedure 4(b)(1)(A), the fourteen-day period for filing a notice of appeal as to that order expired on July 24, 2020. Fata’s notice of appeal, dated July 29, 2020, was filed in the district court on July 30, 2020. The government filed a motion to dismiss the appeal based on Fata’s failure to comply with the time limitations of Federal Rule of Appellate Procedure 4(b).

By an earlier order, we deferred ruling on the government’s motion to dismiss and remanded for the district court to determine whether Fata’s untimely filing was due to excusable neglect or good cause. On remand, the district court declined to extend the time for filing,

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concluding that Fata's failure to file a timely notice of appeal was not the result of excusable neglect or good cause.

The time period set forth in Rule 4(b) for filing a notice of appeal is not jurisdictional, but it is a mandatory claim-processing rule that must be enforced if raised by the government. *See United States v. Brown*, 817 F.3d 486, 489 (6th Cir. 2016); *United States v. Gaytan-Garza*, 652 F.3d 680, 681 (6th Cir. 2011) (per curiam). Here, the government properly raised its objection to Fata's late filing in its motion to dismiss. Because Fata did not file a timely notice of appeal, we **DISMISS** this appeal.

ENTERED BY ORDER OF THE COURT



Deborah S. Hunt, Clerk