

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 17-11111
Non-Argument Calendar

D.C. Docket No. 1:02-cr-20176-JIC-3

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

SAMUEL REYES,
a.k.a. Tony,

Defendant-Appellant.

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

(May 18, 2018)

Before ED CARNES, Chief Judge, WILSON, and FAY, Circuit Judges:

PER CURIAM:

Samuel Reyes, proceeding pro se, appeals the denial of his motion to eliminate or modify his term of probation and the denial of his motion for

reconsideration. The government argues that his appeal should be dismissed because his motion for reconsideration and notice of appeal were both untimely. We agree with the government.

We decide de novo whether an appeal should be dismissed as untimely. United States v. Lopez, 562 F.3d 1309, 1311 (11th Cir. 2009). In a criminal case, a defendant must file a motion for reconsideration or notice of appeal within 14 days after the district court enters the judgment or order being appealed. Fed. R. App. P. 4(b)(1)(A)(i); United States v. Vicaria, 963 F.2d 1412, 1414 (11th Cir. 1992). A timely filed motion for reconsideration tolls the period for filing a notice of appeal, so that “the time begins to run anew following disposition of the motion.” Id. at 1413–14.

The district court denied Reyes’ motion to eliminate or modify his term of probation on January 9, 2017. Reyes had 14 days, until January 23, to file a motion for reconsideration or notice of appeal. But he did not file his motion for reconsideration until February 7. And he did not file his notice of appeal until March 8. Because Reyes did not timely file his motion for reconsideration, that motion did not toll the period for filing a notice of appeal. And even if the deadline had been tolled, Reyes’ notice of appeal would have still been untimely because he filed it 28 days after the court denied the motion for reconsideration.

Because Reyes failed to timely file both his motion for reconsideration and his notice of appeal, his appeal is **DISMISSED**.