

OCT 21 2014

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>CARMON E. WARREN,</p> <p>Plaintiff - Appellant,</p> <p>v.</p> <p>J. SHAWNEGO,</p> <p>Defendant - Appellee.</p>

No. 13-16525

D.C. No. 1:03-cv-06336-AWI-SKO

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Anthony W. Ishii, District Judge, Presiding

Submitted October 14, 2014**

Before: LEAVY, GOULD, and BERZON, Circuit Judges.

Carmon E. Warren, a California state prisoner, appeals pro se from the district court’s order denying his motion for relief from judgment of the dismissal of his action for failure to exhaust administrative remedies. We dismiss this appeal for lack of jurisdiction.

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

Warren failed to appeal within 30 days of April 23, 2013, the date of the district court's order denying his motion for relief from judgment. *See* Fed. R. App. P. 4(a)(1)(A); Fed. R. App. P. 4(c)(1) (“[T]he notice is timely if it is deposited in the institution’s internal mail system on or before the last day for filing.”); *Houston v. Lack*, 487 U.S. 266, 273 (1988) (“[D]elivery of a notice of appeal to prison authorities would not under any theory constitute a ‘filing’ unless the notice were delivered for forwarding to the district court.”). Accordingly, Warren’s notices of appeal were untimely and we lack jurisdiction. *See Stephanie-Cardona LLC v. Smith’s Food & Drug Ctrs., Inc.*, 476 F.3d 701, 703 (9th Cir. 2007) (“A timely notice of appeal is a non-waivable jurisdictional requirement.”).

DISMISSED.