

**MEDINA V. HERNANDEZ**

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**RACHEAL RITA MEDINA,  
Plaintiff-Appellee,  
v.  
SOFIA HERNANDEZ d/b/a  
J. CONSTRUCTION,  
Defendant-Appellant.**

No. A-1-CA-36636

COURT OF APPEALS OF NEW MEXICO

February 26, 2018

APPEAL FROM THE DISTRICT COURT OF CURRY COUNTY, David P. Reeb, District  
Judge

**COUNSEL**

Racheal Rita Medina, Clovis, NM, Pro Se Appellee

Sofia Hernandez, Clovis, NM, Pro Se Appellant

**JUDGES**

LINDA M. VANZI, Chief Judge. WE CONCUR: STEPHEN G. FRENCH, Judge, EMIL J.  
KIEHNE, Judge

**AUTHOR:** LINDA M. VANZI

**MEMORANDUM OPINION**

**VANZI, Chief Judge.**

{1} Appellant, Sofia Hernandez, appeals from an order of the district court dismissing her appeal from a magistrate court judgment on the basis that it was not timely filed. We issued a notice of proposed summary disposition proposing to affirm the district court,

and a memorandum in opposition was filed. We remain unpersuaded that our initial proposed disposition was incorrect, and we therefore affirm.

{2} Plaintiff sued Appellant in magistrate court, and the magistrate court entered judgment against her in the amount of \$6,491.25. [RP 4] The judgment was entered on June 14, 2017. [RP 4] Pursuant to the rules of civil procedure for the magistrate courts, Appellant had fifteen days in which to appeal the judgment by filing a notice of appeal in the appropriate district court. See Rule 2-705(A) NMRA (stating that a party who is aggrieved by a judgment in a civil action may appeal to the district court of the county within which the magistrate court is located within fifteen (15) days after the judgment appealed from is filed in the magistrate court); Rule 2-705(B)(1) (stating that an appeal from the magistrate court is taken by filing a notice of appeal with the district court). Appellant did not file her notice of appeal in the district court until July 12, 2017, and the notice was therefore thirteen days late. [RP 1] Plaintiff filed a motion to dismiss the appeal based on the late notice, and the district court granted the motion. [RP 5-6]

{3} We affirm. Timely filing of the notice of appeal is a mandatory precondition to the exercise of appellate jurisdiction. See *Govich v. N. Am. Sys., Inc.*, 1991-NMSC-061, ¶ 12, 112 N.M. 226, 814 P.2d 94. Since Appellant did not timely file the notice of appeal as required by the rules of procedure, we hold that the district court did not err in dismissing the appeal. See *Trujillo v. Serrano*, 1994-NMSC-024, ¶ 19, 117 N.M. 273, 871 P.2d 369 (“Only the most unusual circumstances beyond the control of the parties—such as error on the part of the court—will warrant overlooking procedural defects.”); see also *Woodhull v. Meinel*, 2009-NMCA-015, ¶ 30, 145 N.M. 533, 202 P.3d 126 (stating that pro se litigants must comply with the rules and orders of the court and will not be treated differently than litigants with counsel).

{4} To the extent Appellant seeks to assert that she was told that she had thirty days in which to file the notice of appeal as a justification for her failure to timely file the notice of appeal, we note that on the record before us, there is nothing to support this claim. [MIO 1] See *Rangel v. Save Mart, Inc.*, 2006-NMCA-120, ¶ 36, 140 N.M. 395, 142 P.3d 983 (stating that this Court will not consider matters not of record on appeal). We therefore presume the regularity of the proceedings in the lower courts. See *Lujan ex rel. Lujan v. Casados-Lujan*, 2004-NMCA-036, ¶ 20, 135 N.M. 285, 87 P.3d 1067 (“Bedrock principles of appellate law dictate that matters not of record present no issue for review, that there is a presumption of regularity in the proceedings below, and that error must be clearly demonstrated.”).

{5} For these reasons, we affirm the district court’s order dismissing the appeal.

**{6} IT IS SO ORDERED.**

**LINDA M. VANZI, Chief Judge**

**WE CONCUR:**

**STEPHEN G. FRENCH, Judge**

**EMIL J. KIEHNE, Judge**