

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

In re:

Case No. 6:08-bk-08583-ABB
Chapter 13

LESHAWN ROUNDTREE,

Debtor.

ORDER

This matter came before the Court on the Notice of Appeal & Reconsideration (Doc. No. 81) (“Notice”) filed by Leshawn Roundtree, the *pro se* Debtor herein (“Debtor”), seeking appeal and/or reconsideration of two Orders.

An Order was entered on December 18, 2008 (Doc. No. 76) dismissing this case due to the Debtor’s failure to make certain plan payments by December 9, 2008. The effective date of the Order was delayed fourteen days to permit the Debtor to convert the case. The Debtor did not file a notice of conversion.

The ten-day period for filing a notice of appeal of the December 18, 2008 Order began running on December 18, 2008 pursuant to Federal Rule of Bankruptcy Procedure 8002(a). The Debtor filed a Notice of Appeal on January 7, 2009. An Order was entered on January 9, 2009 (Doc. No. 79) dismissing the appeal as untimely.

To the extent the Debtor’s Notice constitutes a notice of appeal of the December 18, 2008 Order or the January 9, 2009 Order, it is due to be dismissed. The Notice was filed more than ten days after the entry of the December 18, 2008 and January 9, 2009 Orders. A notice of appeal must be filed “within 10 days of the date of entry of the judgment, order, or decree appealed from.” Fed. R. Bankr. P. 8002(a) (*emphasis added*). This requirement is mandatory and jurisdictional. Advanced Estimating Sys., Inc. v. Riney, 77 F.3d 1322, 1323 (11th Cir. 1996) (*quoting Griggs v. Provident Consumer Disc. Co.*, 459 U.S. 56, 61 (1982)).

To the extent the Debtor seeks reconsideration of the December 18, 2008 Order and/or the January 9, 2009 Order, the Notice is untimely. Federal Rule of Civil Procedure 59(e), made applicable to bankruptcy proceedings pursuant to Federal Rule of Bankruptcy Procedure 9023, sets forth a motion for reconsideration “must be filed no later than 10 days after the entry of the judgment.” The Notice was not filed within the ten-day period and is untimely.

Accordingly, it is

ORDERED, ADJUDGED and DECREED that, to the extent the Debtor’s Notice constitutes a notice of appeal, the appeal is hereby **DISMISSED** as untimely; and it is further

ORDERED, ADJUDGED and DECREED that the Debtor’s Notice, to the extent it constitutes a motion for reconsideration, is hereby **DENIED**.

Dated this 17th day of February, 2009.

Arthur B. Briskman
ARTHUR B. BRISKMAN
United States Bankruptcy Judge