

appellate court with jurisdiction, and consequently does not divest the trial court of its jurisdiction.” *Id.* (citations omitted). The district court may also ignore the notice of appeal if it is deficient for the following reasons: (1) untimeliness; (2) lack of essential recitals; (3) reference to a non-appealable order; or (4) it otherwise is clearly invalid. *Arthur Anderson & Co. v. Finesilver*, 546 F.2d 338, 340 (10th Cir. 1976).

The court disregards defendant’s *pro se* notice of appeal for three reasons. First, defendant appeals the court’s denial of a continuance, which is not an immediately appealable “final order.” *See United States v. Breeden*, 366 F.3d 369, 375 (4th Cir. 2004). Denial of a motion for a continuance can be effectively reviewed post-judgment. *Id.* (citations omitted). Second, defendant filed the notice on August 18, 2005, well after the ten day deadline for filing an appeal. *See Fed. R. App. P. 4(b)*. He did not even sign it until August 12, 2005, also after the ten day deadline. And finally, defendant filed the notice *pro se* although he is represented by competent counsel. His notice of appeal is out of order. *See United States v. Guadalupe*, 979 F.2d 790, 795 (10th Cir. 1992).

For these reasons, the court rules on this pending motion, and will continue to rule on others. The trial will proceed as scheduled.¹

Dated this 25th day of August 2005, at Kansas City, Kansas.

s/ Carlos Murguia
CARLOS MURGUIA
United States District Judge

¹ The court recognizes that defendant, through counsel, filed a second motion to continue the trial on August 24, 2005 (Doc. 215). This ruling is not intended to be a ruling on that motion. The court will consider that motion when it is fully briefed.