

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

United States Court of Appeals  
Fifth Circuit

**FILED**

January 26, 2009

Charles R. Fulbruge III  
Clerk

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No. 07-51257  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff–Appellee,

v.

CHRISTY ANITA RODRIGUEZ, also known as Christina Anita Rodriguez,

Defendant–Appellant.

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 4:07-CR-89-1

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Before KING, DENNIS, and OWEN, Circuit Judges.

PER CURIAM:\*

Christy Anita Rodriguez appeals from her conviction, following a jury trial, of one count of aiding and abetting possession with intent to distribute marijuana. Excluding Saturdays, Sundays, and Columbus Day, Rodriguez's appeal from the September 25, 2007 judgment was due no later than October 10, 2007. FED. R. APP. P. 4(b)(1)(A); FED. R. CRIM. P. 45(a). Her notice of appeal was filed one day later on October 11, 2007.

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

Because Rodriguez's notice of appeal was filed less than thirty days late, it sufficed as a motion for an extension of time under FED. R. APP. P. 4(b)(4). See *United States v. Golding*, 739 F.2d 183, 184 (5th Cir. 1984). Accordingly, we retain jurisdiction over this appeal but remand to the district court for the limited purpose of determining whether excusable neglect or good cause warrants the extension of Rodriguez's filing deadline such that her notice of appeal is timely. The district court is directed to return the case to this court for further proceedings once the finding has been made.

LIMITED REMAND.