

January 6, 2005

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 04-10398
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

MANUEL D. LUJAN,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 2:03-CR-47-10

Before HIGGINBOTHAM, SMITH, and BENAVIDES, Circuit Judges.

PER CURIAM:*

Manuel D. Lujan appeals the district court's denial of his motion for an extension of time to file a late appeal from his conviction for conspiracy to distribute methamphetamine. Lujan's motion for leave to file an untimely notice of appeal was not filed within the 40-day period prescribed by FED. R. APP. P. 4(b)(4). Therefore, the district court was without authority to extend the appeal period, and Lujan had no right to relief by showing excusable neglect or good cause. See United States v.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Awalt, 728 F.2d 704, 705 (5th Cir. 1984); FED. R. APP. P. 4(b)(4).

Accordingly, Lujan's appeal is DISMISSED for lack of jurisdiction; his motions for the appointment of counsel and a copy of the transcript at government expense are DENIED.