

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

---

No. 95-20274  
Summary Calendar

---

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JOHN ADDISON BALLIS,

Defendant-Appellant.

---

Appeal from the United States District Court  
for the Southern District of Texas  
(H-92-CR-85-1)

---

July 17, 1996

Before JOHNSON, BENAVIDES, and PARKER, Circuit Judges.

PER CURIAM:\*

John Anderson Ballis argues the district court abused its discretion by finding that his failure to file a timely notice of appeal was not due to excusable neglect. Ballis was attempting to appeal the district court's order of April 3, 1995, dismissing his motion for a reduction of sentence under former FED R. CRIM. P. 35. Despite numerous opportunities to do so, Ballis has failed to offer any reason for his failure to timely file his notice of appeal when--by his own admission--he did receive the district court's

---

\* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

order on the tenth and final day to make a timely response. Under such circumstances we cannot say that the district court abused its discretion in failing to find excusable neglect on the part of Ballis. See *United States v. Clark*, 51 F.3d 42, 43 (5th Cir. 1995).

AFFIRMED.