

UNITED STATES COURT OF APPEALS
FIFTH CIRCUIT

No. 97-30523
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

DAVID J. MARSHALL,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Louisiana
(96-CR-50060-1)

June 2, 1999

Before REYNALDO G. GARZA, EMILIO M. GARZA, and DENNIS, Circuit Judges.

PER CURIAM:*

The district court did not abuse its discretion in finding that David Marshall's untimely notice of appeal was not due to excusable neglect. *See Halicki v. Louisiana Casino Cruises, Inc.*, 151 F.3d 465, 470 (5th Cir. 1998); *United States v. Clark*, 51 F.3d 42, 44 (5th Cir. 1995). Without a finding of excusable neglect, Marshall's notice of appeal is untimely, and this court lacks jurisdiction over his appeal. *See* FED. R. APP. P. 3(a)(1); *Halicki*, 151 F.3d at 467 n.1. Accordingly, this appeal is DISMISSED.

* Pursuant to Fifth Circuit Rule 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Fifth Circuit Rule 47.5.4.