

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 97-40123
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

BOBBY JOE PRESSLEY,

Defendant-Appellant.

Appeal from the United States District Court
For the Eastern District of Texas

(4:93-CR-55)

March 10, 1998

Before POLITZ, Chief Judge, DAVIS and BENAVIDES, Circuit Judges.

PER CURIAM:*

Bobby Joe Pressley appeals his sentence on resentencing for possession with intent to distribute less than five grams of cocaine base within 1000 feet of an elementary school. This resentencing following the grant of his 28 U.S.C. § 2255

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 R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

motion is considered a criminal proceeding.¹ Pressley filed his notice of appeal outside the appeal period for criminal cases. We therefore lack jurisdiction to address his appeal.²

APPEAL DISMISSED.

¹ **United States v. Scott**, 672 F.2d 454 (5th Cir. 1982); **Williamson v. United States**, 265 F.2d 236 (5th Cir. 1959).

² **United States v. Merrifield**, 764 F.2d 436 (5th Cir. 1985); Fed.R.App.P. 4(b).