

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 00-30792
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

FREDDIE FRANCIS, JR.,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 99-CR-20028-9

April 12, 2001

Before JOLLY, HIGGINBOTHAM, and JONES, Circuit Judges.

PER CURIAM:*

The Federal Public Defender appointed to represent Freddie Francis, Jr., has filed a motion for leave to withdraw and has filed a brief as required by Anders v. California, 386 U.S. 738 (1967). Because Francis' motion for leave to file an untimely notice of appeal was filed beyond the 40-day period prescribed in Fed. R. App. P. 4(b)(4), the district court was without authority to grant an extension of time to file a notice of appeal based on excusable neglect or good cause. See United States v. Awalt, 728 F.2d 704, 705 (5th Cir. 1984). Therefore, we lack

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

jurisdiction to consider Francis' appeal. See id. Accordingly, the motion for leave to withdraw is GRANTED, counsel is excused from further responsibilities herein, and the APPEAL IS DISMISSED for lack of jurisdiction. The order consolidating this appeal with United States v. Vezia, No. 00-30328 and United States v. Milburne, No. 00-30372 is RESCINDED.