

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 00-31041
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

GEORGE MELLEN, JR.,

Defendant-Appellant.

Appeal from the United States District Court
for the Eastern District of Louisiana
USDC No. 99-CR-87

April 11, 2001

Before JOLLY, HIGGINBOTHAM, and JONES, Circuit Judges.

PER CURIAM:*

George Mellen Jr. seeks to appeal his guilty-plea conviction for conspiracy to commit arson. This court must examine the basis for its appellate jurisdiction sua sponte, if necessary. See Mosley v. Cozby, 813 F.2d 659, 660 (5th Cir. 1987). A timely notice of appeal is a mandatory precondition to the exercise of appellate jurisdiction. See United States v. Merrifield, 764 F.2d 436, 437 (5th Cir. 1985).

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Mellen did not file a notice of appeal within 10 days of the entry of the district court's judgment, nor did he file within the additional 30-day window for excusable neglect. See Fed. R. App. P. 4(b)(1) and (4). His notice of appeal was filed in excess of eight months after the district court rendered judgment in his case and is thus insufficient to confer appellate jurisdiction on this court to review his guilty-plea conviction. See id.; Merrifield, 764 F.2d at 437; see also United States v. Awalt, 728 F.2d 704, 705 (5th Cir. 1984). To the extent that Mellen seeks to appeal the district court's denial of his postjudgment motion to dismiss the indictment, he has "appealed from the denial of a meaningless, unauthorized motion." United States v. Early, 27 F.3d 140, 141 (5th Cir. 1994). The Federal Rules of Criminal Procedure do not authorize the postjudgment motion practice employed in this case. Accordingly, the appeal is DISMISSED for lack of jurisdiction.

APPEAL DISMISSED.