

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 02-40367
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

DANIEL SHAW OUELLETTE,

Defendant-Appellant.

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 1:98-CR-40-ALL

December 23, 2002

Before DAVIS, DUHÉ, and DeMOSS, Circuit Judges.

PER CURIAM:¹

Following completion of his term of incarceration imposed for a conviction for mail fraud, Daniel Shaw Ouellette moved for an early termination of his supervised release. His motion was denied on December 10. He sought reconsideration on January 4. Again denied, he appeals to this court.

Notice of appeal following a final judgment is a prerequisite to the exercise of jurisdiction by the Fifth Circuit. United

¹ 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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.

States v. Winn, 948 F.2d 145, 153 (5th Cir. 1991). Ouellette's untimely motion to reconsider did not destroy the finality of the December 10 judgment. See United States v. Cook, 670 F.2d 46, 48 (5th Cir. 1982). With neither a timely notice of appeal nor a timely motion for reconsideration, this court does not have jurisdiction over an appeal of the district court's December 10 ruling. It does, however, have appellate jurisdiction over the January 29 judgment named in his notice. However, Ouellette makes no argument relating to the substance of that matter. In the absence of any argument specifically addressing the January 29 denial of the motion to reconsider, the decision of the district court to deny the motion for reconsideration is affirmed.

AFFIRMED.