

April 7, 2004

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 02-41475
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JOSE GUADALUPE DIAZ,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. M-00-CR-58-2

Before JOLLY, JONES, and BARKSDALE, Circuit Judges.

PER CURIAM:*

Jose Guadalupe Diaz pleaded guilty to a drug trafficking crime and was sentenced to 262 months imprisonment. His appointed counsel has filed a motion to withdraw and a brief in accordance with Anders v. California, 386 U.S. 738 (1967).

"A timely notice of appeal is necessary to the exercise of appellate jurisdiction." United States v. Cooper, 135 F.3d 960, 961 (5th Cir. 1998). No timely notice of appeal was filed from the original judgment, and the amended and re-entered judgments

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

that made only clerical changes pursuant to FED. R. CRIM. P. 36 did not extend the time for filing a notice of appeal. United States v. Lewis, 921 F.2d 563, 565 (5th Cir. 1991); see also FED. R. APP. P. 4(b). The notice of appeal filed almost a year after entry of the original judgment does not confer jurisdiction on this court. The appeal is DISMISSED for lack of jurisdiction, and the motion to withdraw is DENIED AS MOOT.

APPEAL DISMISSED; MOTION TO WITHDRAW DENIED AS MOOT.