

October 2, 2003

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 03-10030  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JOSE SIMON CABRERA,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 3:01-CR-374-ALL-H  
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Before JONES, BENAVIDES, and CLEMENT, Circuit Judges.

PER CURIAM:\*

Jose Simon Cabrera appeals the district court's order denying his motions for leave to file an out-of-time appeal from his sentence and to substitute counsel. Because Cabrera's notice of appeal was not filed within ten days of entry of the district court's orders denying his motions, this court lacks jurisdiction over this appeal. See FED. R. APP. P. 4(b)(1); United States v. Merrifield, 764 F.2d 436, 437 (5th Cir. 1985).

APPEAL DISMISSED.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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