

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

United States Court of Appeals  
Fifth Circuit

**FILED**

January 28, 2010

Charles R. Fulbruge III  
Clerk

\_\_\_\_\_  
No. 09-40680

Summary Calendar  
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UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

RICARDO CORONADO-ALVAREZ,

Defendant-Appellant

\_\_\_\_\_  
Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 5:08-CR-852-1  
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Before DAVIS, SMITH, and DENNIS, Circuit Judges.

PER CURIAM:\*

Ricardo Coronado-Alvarez (Coronado) pleaded guilty to possession with intent to distribute in excess of five kilograms of cocaine and was sentenced to 78 months in prison. The district court's judgment was entered on February 12, 2009. On June 24, 2009, Coronado filed a pro se notice of appeal, asserting that his sentence was illegal as it resulted from an incorrect application of the Sentencing Guidelines. He also sought leave to proceed in forma pauperis (IFP) on appeal. The district court denied Coronado's IFP motion based on its

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

determination that the notice of appeal was untimely and further that an appeal would not be taken in good faith.

Coronado now moves this court for authorization to proceed IFP on appeal. This court can dismiss an appeal during consideration of an interlocutory motion if the appeal “is frivolous and entirely without merit.” 5TH CIR. R. 42.2. Coronado did not file a notice of appeal within 14 days after the entry of the criminal judgment. *See* FED. R. APP. P. 4(b)(1)(A). Further, his notice of appeal was filed beyond the time for extending the appeal period under FED. R. APP. P. 4(b)(4). Thus, the district court did not err in enforcing the time limitations set forth in Rule 4(b), and this court may not reverse its decision to do so. *See United States v. Leijano-Cruz*, 473 F.3d 571, 574 (5th Cir. 2006). Because the instant appeal is without arguable merit, the appeal is dismissed as frivolous, and Coronado’s motion to proceed IFP on appeal is denied. *See* 5TH CIR. R. 42.2.

APPEAL DISMISSED; MOTION DENIED.