

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

United States Court of Appeals
Fifth Circuit

FILED

May 17, 2011

Lyle W. Cayce
Clerk

No. 10-50806
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

MIGUEL RIVERA,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 5:03-CR-466-1

Before DAVIS, SMITH, and SOUTHWICK, Circuit Judges.

PER CURIAM:*

Miguel Rivera pleaded guilty of possession with intent to distribute cocaine and possession of a firearm in furtherance of a drug trafficking crime.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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Judgment was entered in March 2007. More than three years later, Rivera filed a notice of appeal and motions seeking *in forma pauperis* (“IFP”) status, record transcripts, and appointment of counsel. The district court denied the motions.

Rivera moves this court for leave to proceed IFP and for appointment of counsel. We may dismiss an appeal during consideration of an interlocutory motion if the appeal “is frivolous and entirely without merit.” 5TH CIR. R. 42.2. Rivera did not file his notice of appeal within the required period after the entry of judgment or within the time for requesting the district court to extend the deadline. *See* FED. R. APP. P. 4(b)(1), (4). He is not entitled to have the untimeliness of his notice of appeal disregarded. *See United States v. Leijano-Cruz*, 473 F.3d 571, 574 (5th Cir. 2006).

Rivera’s motions for the appointment of counsel and to proceed IFP are DENIED. His delinquent appeal is DISMISSED as frivolous. *See* 5TH CIR. R. 42.2. All other outstanding motions are DENIED.