

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

United States Court of Appeals
Fifth Circuit

FILED

March 13, 2014

Lyle W. Cayce
Clerk

No. 13-40078
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

OSCAR ENRIQUE CABRERA-HERNANDEZ, also known as Oscar Enrique Cabrera, also known as Juan Alberto Perez, also known as Eddie Beraibe Flores,

Defendant-Appellant

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 4:11-CR-129-1

Before WIENER, OWEN, and HAYNES, Circuit Judges.

PER CURIAM:*

Pursuant to a plea agreement, Oscar Enrique Cabrera-Hernandez pleaded guilty to illegal reentry after deportation and was sentenced to 70 months of imprisonment, to be followed by three years of supervised release. More than 44 days after the entry of judgment, Cabrera-Hernandez filed a notice of appeal and a motion seeking an extension of time to file an appeal

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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based on excusable neglect or good cause. The district court denied the motion, finding that the appeal was untimely and that Cabrera-Hernandez failed to show excusable neglect or good cause. The Federal Public Defender appointed to represent Cabrera-Hernandez has filed a motion to withdraw and a brief in accordance with *Anders v. California*, 386 U.S. 738 (1967).

Cabrera-Hernandez 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)(i), (b)(6). His motion for an extension of time to file an appeal was filed beyond the 30-day time limit for extending the appeal period under FED. R. APP. P. 4(b)(4). Because the district court enforced the time limitations set forth in FED. R. APP. P. 4(b), the untimeliness of Cabrera-Hernandez's notice of appeal may not be disregarded. *See United States v. Leijano-Cruz*, 473 F.3d 571, 574 (5th Cir. 2006).

The instant appeal is without arguable merit. Accordingly, counsel's motion to withdraw is GRANTED, and the appeal is DISMISSED as frivolous. *See* 5TH CIR. R. 42.2.