

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

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No. 14-40901  
Summary Calendar

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United States Court of Appeals  
Fifth Circuit

**FILED**

August 13, 2015

Lyle W. Cayce  
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

CARLOS ROBINSON PICHARDO-ESCOTO, also known as Carlos R. Pichardo,

Defendant-Appellant

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 7:13-CR-1832-1

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Before REAVLEY, SMITH, and HAYNES, Circuit Judges.

PER CURIAM:\*

Carlos Robinson Pichardo-Escoto challenges the 46-month prison sentence that he received after pleading guilty to being found in the United States after the Government deported him. In its response brief, the Government moves to dismiss this appeal on the basis that Pichardo-Escoto's notice of appeal was untimely. The record supports the Government's

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

No. 14-40901

contention. Pichardo-Escoto submitted his notice of appeal after the deadline and beyond the period during which the district court could have granted him an extension. See FED. R. APP. P. 4(b)(1)(A)(i), (b)(4). Although Rule 4(b) is not jurisdictional, *United States v. Martinez*, 496 F.3d 387, 388-89 (5th Cir. 2007), we will not disregard a defendant's untimeliness after the Government timely objects, see, e.g., *United States v. Lister*, 561 F. App'x 415, 416 (5th Cir. 2014) (citing *Eberhart v. United States*, 546 U.S. 12, 18 (2005)). The Government's motion to dismiss was timely. *United States v. Hernandez-Gomez*, No. 14-41268, 2015 U.S. App. LEXIS 13761 \*2 (5th Cir. Aug. 6, 2015).

Accordingly, the Government's motion to dismiss is GRANTED, and the appeal is DISMISSED as untimely.