

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

No. 16-40511

United States Court of Appeals
Fifth Circuit

FILED

August 1, 2016

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

ABEL LOPEZ,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 2:14-CR-96-1

Before DENNIS, HAYNES, and GRAVES, Circuit Judges.

PER CURIAM:*

In 2014, Abel Lopez pleaded guilty to conspiracy to export firearms from the United States and possession of a firearm by an undocumented alien and was sentenced to a total of 180 months of imprisonment. A panel of this court dismissed Lopez's direct appeal as frivolous. *See United States v. Lopez*, 607 F. App'x 422 (5th Cir. 2015). In June 2016, Lopez filed a letter with the district court that was docketed as a notice of appeal in the instant case. He now moves for appointment of counsel on 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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Even assuming *arguendo* that Lopez's letter can be liberally construed as a proper notice of appeal, it was filed almost two years after the final judgment was entered, more than a year after the last activity in the file, and well beyond the time for extending the appeal period under Federal Rule of Appellate Procedure 4(b)(4). *See* FED. R. APP. P. 4(b)(1)(A)(i), (b)(4). Moreover, Lopez has already appealed that judgment. Accordingly, the appeal is frivolous and is DISMISSED. 5TH CIR. R. 42.2. Lopez's motion for the appointment of counsel is DENIED.