

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

\_\_\_\_\_  
No. 17-51032  
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United States Court of Appeals  
Fifth Circuit

**FILED**

May 30, 2018

Lyle W. Cayce  
Clerk

UNITED STATES OF AMERICA,

Plaintiff–Appellee,

v.

MANUEL PADILLA,

Defendant–Appellant.

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 7:16-CR-208-1  
\_\_\_\_\_

Before SMITH, HAYNES, and WILLETT, Circuit Judges.

PER CURIAM:\*

Manuel Padilla, federal prisoner # 42408-380, was sentenced to 92 months of imprisonment after pleading guilty to possession with the intent to deliver five grams or more of actual methamphetamine. The district court entered the judgment of conviction in January 2017. Padilla filed a notice of appeal from the judgment in November 2017, nearly ten months after entry of judgment and, as the district court recognized, well beyond the time for appealing and the time for extending the appeal period. *See* FED. R. APP.

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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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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. 17-51032

P. 4(b)(1)(A), (b)(4). Although the time limit for appealing in a criminal case is not jurisdictional, *United States v. Martinez*, 496 F.3d 387, 388-89 (5th Cir. 2007), a defendant is not entitled to have his untimeliness disregarded, *United States v. Leijano-Cruz*, 473 F.3d 571, 574 (5th Cir. 2006). Padilla's untimely appeal is frivolous. *See id.* Consequently, the appeal is DISMISSED, *see* 5TH CIR. R. 42.2, and Padilla's motion for appointment of counsel is DENIED.