

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

United States Court of Appeals
Fifth Circuit

FILED

November 20, 2018

Lyle W. Cayce
Clerk

No. 18-40348
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

MIGUEL ANGEL RAMOS-LOZANO, also known as Muneco,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 7:11-CR-1667-4

Before BENAVIDES, HAYNES, and WILLETT, Circuit Judges.

PER CURIAM:*

Miguel Angel Ramos-Lozano, federal prisoner # 00821-379, appeals the denial of his 18 U.S.C. § 3582(c) motion for reduction of sentence after his conviction and 135-month sentence for conspiracy to possess with intent to distribute more than 1,000 kilograms of marijuana. He argues that the district court abused its discretion in denying his § 3582(c) motion because it failed to follow the two-step process as explained in *Dillon v. United States*, 560 U.S.

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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817, 827 (2010). The Government has filed a letter seeking the dismissal of the appeal on the basis that Ramos-Lozano failed to file a timely notice of appeal.

The record supports the Government's contention. Ramos-Lozano filed his notice of appeal after the expiration of the time for filing a timely appeal and beyond the time during which the district court could have granted him an extension upon a showing of either excusable neglect or good cause. *See* FED. R. APP. P. 4(b)(1)(A)(i), (b)(4); *United States v. Alvarez*, 210 F.3d 309, 310 (5th Cir. 2000). While the untimely filing of a notice of appeal in a criminal case is not jurisdictional, *see United States v. Martinez*, 496 F.3d 387, 388-89 (5th Cir. 2007), this court will enforce the mandatory time limit by dismissing the appeal where, as here, the Government raises the issue. *See United States v. Hernandez-Gomez*, 795 F.3d 510, 511 (5th Cir. 2015).

Accordingly, the appeal is DISMISSED as untimely.