

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

September 24, 2020

Lyle W. Cayce
Clerk

No. 19-50883
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

JOSE LUIS CABRERA-CASTRO,

Defendant—Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 2:18-CR-1786-1

Before JOLLY, ELROD, and GRAVES, *Circuit Judges.*

PER CURIAM:*

Jose Luis Cabrera-Castro pleaded guilty to illegal reentry after removal in violation of 8 U.S.C. § 1326; he was sentenced to 42 months of imprisonment and three years of supervised release. On appeal, he argues that the sentence imposed was substantively unreasonable in light of the

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

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18 U.S.C. § 3553(a) factors. In response, the Government argues that his appeal should be dismissed as untimely.

Cabrera-Castro 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), (4). While the timely filing of a notice of appeal in a criminal case is not jurisdictional, it is mandatory. *United States v. Pesina-Rodriguez*, 825 F.3d 787, 788 (5th Cir. 2016). We will enforce the mandatory time limit by dismissing the appeal where, as here, the Government timely raises the issue. *See United States v. Hernandez-Gomez*, 795 F.3d 510, 511 (5th Cir. 2015).

Accordingly, the appeal is DISMISSED as untimely.