

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 95-40294
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

HECTOR GOMEZ MARULANDA,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 6:94-CR-44-2
- - - - -

March 1, 1996

Before DAVIS, BENAVIDES, and DENNIS, Circuit Judges.

PER CURIAM:*

Fed. R. App. P. 4(b) allows the district court to grant a party who files an untimely notice of appeal an additional 30 days in which to file a notice of appeal upon a showing of excusable neglect. This court remanded the case to the district court for a determination whether Marulanda's untimely filing of the notice of appeal was due to excusable neglect. The district court determined that Marulanda's untimely filing of her notice

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

of appeal was not due to excusable neglect and that therefore her

time for filing a notice of appeal should not be extended.

Without a finding of excusable neglect, Marulanda's notice of appeal is untimely and this court is without jurisdiction over her appeal. Accordingly, the appeal is DISMISSED.