

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 95-60197  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

WILLIAM DARRELL ANDERSON,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Southern District of Mississippi  
USDC No. 4:94-CR-4-BN  
- - - - -  
June 27, 1995

Before JONES, WIENER, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:\*

Appellant William Darrell Anderson has filed motions for the appointment of counsel and for preparation of transcripts at government expense. The motions are DENIED and the appeal is DISMISSED.

After being convicted of a federal offense, Anderson was sentenced to serve a term of imprisonment and to supervised release. The judgment was entered August 23, 1994. Anderson did not appeal from the judgment of conviction, but on December 27,

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\* Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the court has determined that this opinion should not be published.

1994, he filed a motion dated December 19, 1994, requesting leave to file an out-of-time notice of appeal therefrom and his sentencing transcripts.

A convicted defendant has ten days after entry of the judgment of conviction and sentence in which to file a notice of appeal therefrom. The time for filing the notice can be extended 30 days in the event of excusable neglect. Fed. R. App. P. 4(b). Because Anderson's motion for leave to file an out-of-time notice of appeal was not filed within 40 (10 + 30) days after entry of the judgment of conviction, the district court lacked jurisdiction to entertain the motion. See United States v. Lewis, 921 F.2d 563, 564-65 (5th Cir. 1991).

MOTIONS DENIED; APPEAL DISMISSED.