

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 96-10013
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

KENNETH EVANS,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:93-CR-045-A
- - - - -
February 24, 1997

Before SMITH, EMILIO M. GARZA, and PARKER, Circuit Judges.

PER CURIAM:*

On or about December 26, 1995, Evans mailed his notice of appeal, appealing the district court's denial of his motion for reduction and/or correction of sentence. It was received by the clerk on January 2, 1996. This court held that the notice of appeal was untimely and remanded the case to the district court to determine whether Evans could establish excusable neglect.

On March 19, 1996, the district court, finding that Evans had not demonstrated excusable neglect, denied the motion for

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

extension of time in which to file an appeal. In his brief, Evans does not assign error to the district court's finding of no excusable neglect, nor does he brief the issue.

Because Evans failed to brief the only appealable issue, the finding of no excusable neglect, he has effectively abandoned it for the purposes of his appeal. Weaver v. Puckett, 896 F.2d 126, 128 (5th Cir.), cert. denied, 498 U.S. 966 (1990). Accordingly, this court's finding that Evans' December 26, 1995, notice of appeal was untimely is undisturbed, and his appeal is dismissed for lack of jurisdiction.

APPEAL DISMISSED.