

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

---

No. 96-10804  
Summary Calendar

---

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ROBERTO JIMENEZ,

Defendant-Appellant.

- - - - -  
Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 3:89-CR-97-R

- - - - -  
September 19, 1997

Before WISDOM, WIENER, AND DENNIS, Circuit Judges

PER CURIAM:\*

Appellant Roberto Jimenez filed his notice of appeal one day late. Upon remand, the district court held that the untimeliness did not result from excusable neglect. See Fed. R. App. P. 4(b).

Jimenez has not contested the district court's ruling, and the record reveals no reason for this court to conclude that the ruling constitutes an abuse of discretion. Accordingly, Jimenez's appeal is DISMISSED for failure to file a timely notice of appeal. See United States v. Clark, 51 F.3d 42 (5th Cir. 1995).

---

\* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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.

No.

-2-

APPEAL DISMISSED.