

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 96-40842
Summary Calendar

HORTENCIA RODRIGUEZ,

Plaintiff-Appellant,

versus

UNITED STATES OF AMERICA, ET AL.,

Defendants,

UNITED STATES OF AMERICA; U.S. DEPARTMENT OF JUSTICE;
UNITED STATES DRUG ENFORCEMENT,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Southern District of Texas
USDC No. B-94-CV-316
- - - - -
September 16, 1998

Before DAVIS, DUHÉ, and PARKER, Circuit Judges.

PER CURIAM:¹

Hortencia Rodriguez has appealed the dismissal of her action to recover property which was ordered forfeited pursuant to 21 U.S.C. § 881. A panel of this court previously has dismissed Rodriguez's appeal from the judgment in favor of appellee San Benito Bank & Trust Co., for lack of a timely notice of appeal. At the time Rodriguez filed her notice of appeal, the district court

¹ 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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.

had not dismissed her claims against the bank. Accordingly, Rodriguez's appeal of the judgment in favor of the remaining defendant-appellees must be dismissed for lack of jurisdiction. See 28 U.S.C. § 1291; Witherspoon v. White, 111 F.3d 399, 401-03 (5th Cir. 1997).

IT IS FURTHER ORDERED that Rodriguez's application for the appointment of appellate counsel to represent her is DENIED.

MOTION DENIED; APPEAL DISMISSED.