

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-10852
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

LONNIE D. CLARK, a/k/a Chick Clark,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Northern District of Texas
USDC No. 94-CR-18-1
- - - - -

June 17, 1999

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

PER CURIAM:*

This court must determine the basis of its jurisdiction, on its own motion, if necessary. *Mosley v. Cozby*, 813 F.2d 659, 660 (5th Cir. 1987). FED. R. APP. P. 4(b) requires that a notice of appeal by a defendant in a criminal case be filed within 10 days of the entry of judgment. The rule allows the district court to grant an additional 30 days in which to file the notice of appeal upon a showing of excusable neglect or good cause. FED. R. APP. P. 4(b)(4).

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

We previously remanded Clark's case for the district court to make findings regarding whether Clark's late notice of appeal could be excused pursuant to Rule 4(b)(4). The district court found that Clark's late notice of appeal could not be so excused. The district court's determination was not an abuse of discretion. *United States v. Clark*, 51 F.3d 42, 43 n.5 (5th Cir. 1995). We therefore lack jurisdiction to consider Clark's appeal; the appeal therefore is DISMISSED for want of jurisdiction and our previous grant of leave to proceed in forma pauperis (IFP) is RESCINDED as improvidently granted.

APPEAL DISMISSED.