

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 99-40061
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

KARL GAYWIN ACLESE,

Defendant-Appellant.

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 1:94-CR-81-2

December 15, 1999

Before JOLLY, HIGGINBOTHAM, and BARKSDALE, Circuit Judges.

PER CURIAM:*

Karl Gaywin Aclese (# 04913-078) appeals from the denial of a motion filed pursuant to 18 U.S.C. 3582(c)(2) and a motion for reconsideration. This court must examine the basis of its jurisdiction on its own motion if necessary. *Mosley v. Cozby*, 813 F.2d 659, 660 (5th Cir. 1987). A motion filed pursuant to § 3582(c)(2) is a further motion filed by a defendant in a criminal case, and a notice of appeal in a criminal case must be filed within ten days of the judgment or order appealed. See

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

§ 3582(c)(2); Fed. R. App. P. 4(b). A timely filed motion for reconsideration extends the time for taking an appeal so that the period begins to run when the motion is denied. *United States v. Lewis*, 921 F.2d 563, 564 (5th Cir. 1991).

Although Aclese's timely filed motion for reconsideration extended the period for filing a notice of appeal, orders issued by the magistrate judge are not appealable directly to this court. *See Mendes Junior Int'l Co. v. M/V SOKAI MARU*, 978 F.2d 920, 924 (5th Cir. 1992)(entry of judgment by magistrate judge without the appropriate consent and reference or special order of designation results in a lack of jurisdiction); *see also Trufant v. Autocon, Inc.*, 729 F.2d 308, 309 (5th Cir. 1984)(orders issued by magistrate judge are not appealable to this court). Accordingly, Aclese's appeal is DISMISSED for lack of jurisdiction.

APPEAL DISMISSED.