

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 99-50900

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ANTHONY DAILEY,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. W-95-CR-35-2

April 4, 2000

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

PER CURIAM:*

Anthony Dailey appeals the district court's denial of the Government's Fed. R. Crim. P. 35(b) motion. A timely notice of appeal is a prerequisite to the exercise of jurisdiction by this court. United States v. Carr, 979 F.2d 51, 55 (5th Cir. 1992). Dailey's notice of appeal was filed more than ten days after the district court denied the motion and is thus untimely. Fed. R. Crim. P. 4(b). Accordingly, we lack jurisdiction over this appeal, and it is DISMISSED.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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