

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-31243
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

DWAYNE D. DORSETT,

Defendant-Appellant.

Appeal from the United States District Court
for the Eastern District of Louisiana
USDC No. 95-CR-192-2-T

October 23, 2002

Before HIGGINBOTHAM, SMITH, and CLEMENT, Circuit Judges.

PER CURIAM:*

Dwayne Dorsett, federal prisoner # 24731-034, argues that the district court abused its discretion in determining that he had failed to show excusable neglect or good cause for failing to file a timely notice of appeal from the district court's orders denying his motion made pursuant to FED. R. CRIM. P. 35(a).

Dorsett asserts that his appeal was not timely filed because the district court ordered him to file no further pleadings in

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

the district court. However, in that same order, the district court specifically instructed the parties to seek any further relief to which they believed they were entitled in the Fifth Circuit. Even assuming that Dorsett had to inquire about the proper procedure to be followed in filing an appeal, he provides no explanation why he failed to send the notice of appeal until October 9, 2001, 25 days after the district court entered the order. Thus, Dorsett has failed to show that the district court abused its discretion in finding no basis for excusable neglect or good cause. Because the appeal was not timely filed, it is DISMISSED for lack of jurisdiction.

Dorsett's motion for the appeal of denial of appeal as untimely, which is construed as a motion seeking extraordinary relief, is DENIED.

APPEAL DISMISSED.