

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

June 22, 2011

Lyle W. Cayce
Clerk

No. 10-40789
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

ENRIQUE GOMEZ-RODRIGUEZ,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 7:08-CR-886-3

Before DENNIS, CLEMENT, and ELROD, Circuit Judges.

PER CURIAM:*

Enrique Gomez-Rodriguez pleaded guilty to conspiracy to possess with intent to distribute cocaine and was sentenced to a 90-month prison term. Judgment was entered on January 7, 2010, and his undated notice of appeal was filed in the record on August 13, 2010. Gomez-Rodriguez's notice of appeal was filed more than seven months after the final judgment was entered and beyond the time for extending the appeal period under Federal Rule of Appellate Procedure 4(b)(4). *See* FED. R. APP. P. 4(b)(1)(A)(i), (b)(4). Gomez-Rodriguez did

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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not file a timely notice of appeal, and he has not asserted any ground for excusable neglect. Therefore, his appeal is DISMISSED as untimely. *See United States v. Leijano-Cruz*, 473 F.3d 571, 574 (5th Cir. 2006). Accordingly, his motions for appointment of counsel and to proceed in forma pauperis on appeal are DENIED AS MOOT.