

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

July 1, 2021

Lyle W. Cayce
Clerk

No. 20-51024
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

JESUS JIMENEZ,

Defendant—Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 7:14-CR-173-1

Before DENNIS, SOUTHWICK, and ENGELHARDT, *Circuit Judges.*

PER CURIAM:*

Jesus Jimenez appeals the district court's denial of his motion for a sentence reduction pursuant to 18 U.S.C. § 3582(c)(1)(A)(i) and the First Step Act. In response, the Government moves for the dismissal of the appeal as untimely or, alternatively, for an extension of time to file its brief.

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

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Jimenez failed to timely file his notice of appeal within 14 days after the entry of the order denying his § 3582(c)(1)(A)(i) motion. *See* FED. R. APP. P. 4(b)(1)(A)(i); *see also United States v. Chambliss*, 948 F.3d 691, 692 (5th Cir. 2020) (stating that § 3582(c)(1)(A)(i) is a part of the First Step Act); *United States v. Hegwood*, 934 F.3d 414, 418 (5th Cir.) (indicating that First Step Act motions are comparable to § 3582(c)(2) motions), *cert. denied*, 140 S. Ct. 285 (2019); *United States v. Alvarez*, 210 F.3d 309, 310 (5th Cir. 2000) (stating that a § 3582(c)(2) motion is a step in a criminal proceeding and applying the notice-of-appeal deadline for criminal appeals). He likewise failed to file either his notice of appeal or his motion for leave to proceed in forma pauperis on appeal within the 30-day period for requesting an extension of the appeal period due to excusable neglect or for good cause. *See* FED. R. APP. P. 4(b)(4); *see also United States v. Garcia-Paulin*, 627 F.3d 127, 130 n.1 (5th Cir. 2010); *United States v. Golding*, 739 F.2d 183, 184 (5th Cir. 1984). Finally, Jimenez has otherwise failed to show that the untimeliness of his notice of appeal should be disregarded. *See* FED. R. APP. P. 26(b)(1); *Nutraceutical Corp. v. Lambert*, 139 S. Ct. 710, 714-15 (2019).

While not jurisdictional, the time limits for filing a notice of appeal in a criminal case are “mandatory claims-processing rules.” *United States v. Pesina-Rodriguez*, 825 F.3d 787, 788 (5th Cir. 2016). Where, as here, the untimeliness of a notice of appeal is properly invoked in a criminal case, the appeal is foreclosed. *See id.* Accordingly, the Government’s motion to dismiss the appeal as untimely is GRANTED, the Government’s alternative motion for an extension of the briefing period is DENIED as moot, and this appeal is DISMISSED.