

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

September 15, 2022

Lyle W. Cayce
Clerk

No. 21-60649
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

JUSTIN C. MARK,

Defendant—Appellant.

Appeal from the United States District Court
for the Southern District of Mississippi
No. 1:11-CR-22-1

Before KING, JONES, and SMITH, *Circuit Judges.*

PER CURIAM:*

Justin Mark, federal prisoner #16060-043, moves to proceed *in forma pauperis* (“IFP”) on appeal of the June 15, 2021, order denying his request to correct the statement of reasons in his criminal case. Mark’s notice of appeal was filed, at the earliest, on August 6, 2021, after expiration of both the 14-day

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

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period for filing a notice of appeal under Federal Rule of Appellate Procedure 4(b)(1)(A) and the maximum 30-day extension that could be granted under Rule 4(b)(4).

This court may dismiss an appeal during consideration of an interlocutory motion if the appeal “is frivolous and entirely without merit.” 5TH CIR. R. 42.2. The district court denied Mark’s request to proceed IFP on appeal and certified that the appeal was not taken in good faith because his notice of appeal was untimely. Because the district court did not err in enforcing the time limits in Rule 4(b), the untimeliness of Mark’s notice of appeal may not be disregarded. *See United States v. Leijano-Cruz*, 473 F.3d 571, 574 (5th Cir. 2006).

The appeal is without arguable merit and is DISMISSED, and Mark’s motion to proceed IFP on appeal is DENIED. *See* 5TH CIR. R. 42.2.