

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

September 30, 2026

Lyle W. Cayce
Clerk

No. 25-40787
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

GABRIEL AMADOR,

Defendant—Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 2:08-CR-738-1

Before SMITH, SOUTHWICK, and OLDHAM, *Circuit Judges*.

PER CURIAM:*

Gabriel Amador appeals the district court's denial of his motion for reconsideration after resentencing. In 2009, a jury convicted Amador of a controlled substance conspiracy and a firearm offense. On direct appeal, we affirmed the district court's original judgment in part, vacated it in part, and remanded the case for resentencing on the firearm count. *United States v. Amador*, No. 22-40139, 2023 WL 4363665, at *2 (5th Cir. July 6, 2023)

* This opinion is not designated for publication. See 5TH CIR. R. 47.5.

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(unpublished). Amador moved the district court for full resentencing on both counts, which the district court denied. The district court then resentenced him on the firearm count. About a year and a half later, Amador filed a motion for reconsideration of the denial of his motion for full resentencing.

The Government's invocation of the time limit in Federal Rule of Appellate Procedure 4(b)(1)(A)(i) is unavailing. The district court's grant of Amador's motion for leave to proceed in forma pauperis on appeal constitutes an implicit finding of excusable neglect for extending the time to file a notice of appeal under Rule 4(b)(4). *See United States v. Quimby*, 636 F.2d 86, 89 (5th Cir. 1981). Therefore, Amador's appeal of the denial of his motion for reconsideration is timely. *See* FED. R. APP. P. 4(b)(4).

Although Amador argues that the district court should have granted his motion for reconsideration, the district court lacked statutory authority, and thus lacked jurisdiction, to entertain the motion. *See United States v. Early*, 27 F.3d 140, 142 (5th Cir. 1994); 18 U.S.C. § 3582(b)–(c); *see also* FED. R. CRIM. P. 35. Accordingly, the district court's order denying the motion is AFFIRMED. *See Early*, 27 F.3d at 142. Amador's motion for appointment of counsel is DENIED.