

United States Court of Appeals for the Fifth Circuit

No. 25-60538
Summary Calendar

United States Court of Appeals
Fifth Circuit
FILED
September 14, 2026

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

CARLOS WALLACE,

Defendant—Appellant.

Appeal from the United States District Court
for the Southern District of Mississippi
USDC No. 3:23-CR-97-1

Before HAYNES, GRAVES, and RAMIREZ, *Circuit Judges*.

PER CURIAM:*

Carlos Wallace pleaded guilty to one count of possession with intent to distribute 50 grams or more of methamphetamine in violation of 21 U.S.C. § 841(a)(1) and (b)(1)(A) and was sentenced to 210 months of imprisonment. He appeals his conviction and sentence. The Government moves to dismiss

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

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his appeal as untimely or, alternatively, to enforce the appeal waiver contained in the plea agreement and for summary affirmance.

The record reveals that Wallace’s notice of appeal is untimely as it was not filed within the time limitations set forth in Federal Rule of Appellate Procedure 4(b). *See* FED. R. APP. P. 4(b)(1)(A), (b)(4); *see also* FED. R. APP. P. 4(c)(1)(A)(i)-(ii). Wallace has not filed a response to the Government’s motion to dismiss and has not otherwise addressed the timeliness of his appeal.

Although an untimely notice of appeal does not deprive this court of jurisdiction over a criminal appeal, “the time limits in Rule 4(b)(1)(A) are mandatory claims-processing rules.” *United States v. Pesina-Rodriguez*, 825 F.3d 787, 788 (5th Cir. 2016). When, as in this case, the party asserting application of the rule properly seeks enforcement of the rule, a “court’s duty to dismiss the appeal [is] mandatory.” *Eberhart v. United States*, 546 U.S. 12, 18 (2005); *see United States v. Hernandez-Gomez*, 795 F.3d 510, 511 (5th Cir. 2015).

Accordingly, the Government’s motion to dismiss is GRANTED, and the appeal is DISMISSED. The Government’s alternative motion to enforce the appeal waiver and for summary affirmance is DENIED as moot.