

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 00-40246
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

SYLVESTER WILLIAM BROWN, JR.,

Defendant-Appellant.

Appeal from the United States District Court
for the Eastern District of Texas
USDC Nos. 4:98-CV-27
4:96-CR-13-1

October 18, 2000

Before SMITH, BARKSDALE, and BENAVIDES, Circuit Judges.

PER CURIAM:*

Sylvester William Brown, Jr., federal prisoner # 04293-078, seeks a certificate of appealability ("COA") to appeal the district court's denial of his 28 U.S.C. § 2255 motion.

This court must examine the basis of its jurisdiction on its own motion if necessary. Mosley v. Cozby, 813 F.2d 659, 660 (5th Cir. 1987). A timely notice of appeal is a mandatory precondition to the exercise of appellate jurisdiction. See Nelson v. Foti, 707 F.2d 170, 171 (5th Cir. 1983). The record

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

shows that, although the district court granted Brown's motion to reopen the time for filing a notice of appeal, Brown did not file his notice of appeal within 14 days of entry of the order to reopen, and his notice of appeal was therefore untimely. See Fed. R. App. P. 4(a)(6).

Accordingly, the appeal is DISMISSED for lack of jurisdiction. Brown's request for a COA is DENIED as moot.

APPEAL DISMISSED; COA DENIED AS MOOT.