

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 01-50716  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ROBERTO NOEL SOLIS,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. W-97-CR-35-10  
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April 11, 2002

Before SMITH, DeMOSS, and PARKER, Circuit Judges.

PER CURIAM:\*

Counsel appointed to represent Roberto Noel Solis on appeal has filed a motion for leave to withdraw and has filed a brief as required by Anders v. California, 386 U.S. 738 (1967). Solis has filed a response.

Because neither Solis nor his attorney filed any pleading evidencing an intent to appeal within the 40-day period prescribed in FED. R. APP. P. 4(b)(4), the district court was without authority to extend the time for filing an appeal. See United States v. Awalt, 728 F.2d 704, 705 (5th Cir. 1984).

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Therefore, we lack jurisdiction to consider Solis' appeal. See id. Accordingly, the motion for leave to withdraw is GRANTED, counsel is excused from further responsibilities herein, and the APPEAL IS DISMISSED for lack of jurisdiction. Solis' motion for appointment of counsel is DENIED.