

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 94-50775  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

EDDIE JOE DAVIS,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. SA-90-CR-139(1)  
- - - - -

June 28, 1995

Before JONES, WIENER, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:\*

The Government argues that the district court lacked jurisdiction to consider Eddie Joe Davis's September 15th motion to reconsider because it was not filed within the ten-day limit established by Fed. R. App. P. 4(b), and because Davis did not appeal the January 20th order. Davis's motion to reconsider was untimely because it was filed approximately eight months after entry of the district court's order denying Davis's motion to reduce sentence; Davis also failed to file a notice of appeal of

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\* Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the court has determined that this opinion should not be published.

the January 20th order. Accordingly, Davis filed "an unauthorized motion which the district court was without jurisdiction to entertain. Thus, he has appealed from the denial of a meaningless, unauthorized motion." United States v. Early, 27 F.3d 140, 142 (5th Cir.), cert. denied, 115 S. Ct. 600 (1994). "Although the district court denied the motion on the merits, it should have denied the motion for lack of jurisdiction." Id. This court affirms on the alternative basis. Id.

AFFIRMED.