

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 95-40293  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ELENA FORY MINA,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Eastern District of Texas  
USDC No. 6:94-CR-44-1  
- - - - -

March 1, 1996

Before DAVIS, BENAVIDES, and DENNIS, Circuit Judges.

PER CURIAM:\*

Fed. R. App. P. 4(b) allows the district court to grant a party who files an untimely notice of appeal an additional 30 days in which to file a notice of appeal upon a showing of excusable neglect. This court remanded the case to the district court for a determination whether Mina's untimely filing of the notice of appeal was due to excusable neglect. The district court determined that Mina's untimely filing of her notice of appeal was not due to excusable neglect and that therefore her

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\* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

time for filing a notice of appeal should not be extended. Without a finding of excusable neglect, Mina's notice of appeal is untimely and this court is without jurisdiction over her appeal. Accordingly, the appeal is DISMISSED.