

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 97-41470  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

LUIS DONALD QUINTERO,

Defendant-Appellant.

- - - - -  
Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. B-96-CV-82  
- - - - -

February 10, 1999

Before BARKSDALE and EMILIO M. GARZA, Circuit Judges.\*

PER CURIAM:\*\*

Luis Donald Quintero, federal inmate #62583-079, moves this court for a certificate of appealability (COA) from the district court's dismissal of his 28 U.S.C. § 2255 motion. We must examine the basis of our jurisdiction, *sua sponte* if necessary. *Mosley v. Cozby*, 813 F.2d 659, 660 (5th Cir. 1987). A timely notice of appeal is a prerequisite for the exercise of jurisdiction by this court. *United States v. Carr*, 979 F.2d 51, 55 (5th Cir. 1992).

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\*This matter is being decided by a quorum. 28 U.S.C. § 46(d).

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Quintero did not timely notice his appeal from the district court's judgment of dismissal of his § 2255 motion, and we are without jurisdiction to consider this case. See Carr, 979 F.2d at 55. Accordingly, the motion for a COA is DENIED, and the appeal is dismissed for lack of jurisdiction.

MOTION DENIED; APPEAL DISMISSED FOR LACK OF JURISDICTION.