

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-20788
USDC No. H-93-CR-172-2

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JUAN MORENO,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Southern District of Texas
- - - - -

July 23, 1999

Before DAVIS, BENAVIDES and PARKER, Circuit Judges.

PER CURIAM:*

Juan Moreno, federal prisoner # 46292-079, appeals from the district court's determination on remand that his untimely notice of appeal from the denial of his motion for a new trial was not the result of excusable neglect under Fed. R. App. P. 4(b)(4).

This court reviews for an abuse of discretion the district court's determination of excusable neglect under Rule 4(b).

United States v. Clark, 51 F.3d 42, 43 n.5 (5th Cir. 1995). When "the rule at issue is unambiguous, a district court's

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

determination that the neglect was inexcusable is virtually unassailable." Halicki v. Louisiana Casino Cruises, Inc., 151 F.3d 465, 470 (5th Cir. 1998), cert. denied, 119 S. Ct. 1143 (1999).

There was nothing unusual or difficult about noticing an appeal in this case, and Moreno does not allege confusion or ignorance. Given the straightforward nature of the case, the district court did not abuse its discretion in finding that Moreno's failure to file a timely notice of appeal was inexcusable. Accordingly, the appeal is DISMISSED for lack of jurisdiction. Fed. R. App. P. 3(a)(1).