

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

September 2, 2009

Charles R. Fulbruge III
Clerk

No. 08-41253
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

KAREN AIDE CANTU-MEDINA,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 1:07-CR-1215-1

Before BENAVIDES, PRADO, and SOUTHWICK, Circuit Judges.

PER CURIAM:*

Karen Aide Cantu-Medina pleaded guilty pursuant to a written plea agreement to possessing with intent to distribute more than five kilograms of cocaine and was sentenced to 87 months of imprisonment. Five months after the entry of judgment, Cantu-Medina filed a notice of appeal. Her counsel subsequently moved to withdraw. Finding that the judgment of conviction and sentence had become unappealable when no notice of appeal was timely filed, the district court denied the motion as moot.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Cantu-Medina now moves this court for the production of transcripts at government expense, the appointment of counsel, and permission to proceed in forma pauperis. This court may dismiss an appeal when considering an interlocutory motion if the appeal “is frivolous and entirely without merit.” 5TH CIR. R. 42.2. Cantu-Medina did not file a notice of appeal within 10 days after the entry of the criminal judgment, *see* FED. R. APP. P. 4(b)(1)(A), or even within the time for extending the appeal period under FED. R. APP. P. 4(b)(4). Cantu-Medina is not entitled to have the untimeliness of her notice of appeal disregarded. *See United States v. Leijano-Cruz*, 473 F.3d 571, 574 (5th Cir. 2006). Because the instant appeal is without arguable merit, Cantu-Medina’s motions for the production of transcripts at government expense, the appointment of counsel, and permission to proceed in forma pauperis are DENIED, and the appeal is DISMISSED as frivolous. *See* 5TH CIR. R. 42.2.