

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

United States Court of Appeals
Fifth Circuit

FILED

January 6, 2014

Lyle W. Cayce
Clerk

No. 13-40623
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

LEO PATRICK COLLINS,

Defendant-Appellant

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 5:10-CR-1-1

Before KING, DAVIS, and SMITH, Circuit Judges.

PER CURIAM:*

Leo Patrick Collins, federal prisoner # 15509-078, appeals the district court's denial of his motion to compel specific performance of the plea agreement. In his motion, he asked the district court to compel the Government to file a motion to reduce his sentence as provided in Rule 35(b) of the Federal Rules of Criminal Procedure. The Government argues that

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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Collins's appeal should be dismissed because Collins failed to file a timely notice of appeal.

Collins's notice of appeal was filed after the expiration of the time for filing a timely notice of appeal and the time during which the district court could have extended the time for filing a notice of appeal. *See* FED. R. APP. P. 4(b)(1)(A)(i), (b)(4). Accordingly, we GRANT the Government's motion for summary dismissal and DISMISS Collins's appeal as untimely filed. *See Burnley v. City of San Antonio*, 470 F.3d 189, 192 n.1 (5th Cir. 2006).

The Government's alternative motions for summary affirmance or for an extension of time to file an appellate brief are DENIED. Collins's motion for leave to amend his reply brief is GRANTED; his motions for a three-point reduction for his substantial assistance and to place our decision under seal are DENIED.