

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

No. 13-50479

United States Court of Appeals
Fifth Circuit

FILED

January 13, 2014

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

ISRAEL MARTINEZ ORTEGA, SR.,

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Texas
USDC No. 4:01-CR-247-2

Before HIGGINBOTHAM, DENNIS, and GRAVES, Circuit Judges.

PER CURIAM:*

In 2002, Israel Martinez Ortega, Sr., was convicted of conspiracy to import a controlled substance and sentenced to 420 months of imprisonment and five years of supervised release. More than 11 years after the entry of the judgment, he filed a notice of appeal seeking to appeal the judgment. The district court construed the notice of appeal as a motion for extension of time to notice an appeal from the 2002 sentence imposed for his conviction, and the district court denied the motion.

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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Ortega moves for leave to appeal in forma pauperis (IFP) and for appointment of counsel on appeal. We may dismiss an appeal when considering an interlocutory motion if the appeal “is frivolous and entirely without merit.” 5TH CIR. R. 42.2. Ortega did not file his notice of appeal within the requisite time after the entry of his judgment or within the time allowed for extending the appeal period. *See* FED. R. APP. P. 4(b). He is not entitled to have the untimeliness of his notice of appeal disregarded. *See United States v. Leijano-Cruz*, 473 F.3d 571, 574 (5th Cir. 2006). Accordingly, we deny his motions for leave to appeal IFP and for the appointment of counsel, and we dismiss the appeal as frivolous. *See* 5TH CIR. R. 42.2.

MOTIONS DENIED; APPEAL DISMISSED.