

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

\_\_\_\_\_  
No. 14-50472  
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United States Court of Appeals  
Fifth Circuit

**FILED**

April 3, 2015

Lyle W. Cayce  
Clerk

ROBERT KRAMER,

Plaintiff-Appellant

v.

CORRECTIONAL OFFICER A. CASTANEDA; RUBEN SANCHEZ, John  
Doe #1; IMER COLLINS, Jane Doe #1-Property Officer; C. LAWSON,  
Regional Grievance; GORGE MOTA, John Doe #2,

Defendants-Appellees

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 4:13-CV-20  
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Before PRADO, OWEN, and GRAVES, Circuit Judges.

PER CURIAM:\*

Robert Kramer, Texas prisoner # 643733, appeals the dismissal of his civil action. He also moves for the appointment of counsel and leave to proceed in forma pauperis on appeal.

After entry of the judgment dismissing his action, Kramer had 30 days to file a timely notice of appeal. *See* FED. R. APP. P. 4(a)(1)(A). His May 6, 2014, pro se notice of appeal was untimely. *See id.; Spotville v. Cain*, 149 F.3d 374,

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\* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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376-78 (5th Cir. 1998). The timing of Kramer's notice of appeal raises a jurisdictional question that this court must examine on its own motion, if necessary. See *Bowles v. Russell*, 551 U.S. 205, 214 (2007); *Mosley v. Cozby*, 813 F.2d 659, 660 (5th Cir. 1987).

A district court may extend the 30-day filing period of Federal Rule of Appellate Procedure 4(a)(1)(A) upon a showing of excusable neglect or good cause. See FED. R. APP. P. 4(a)(5)(A). We construe Kramer's notice of appeal, which asserted reasons for his untimely filing, as a motion under Federal Rule of Appellate Procedure 4(a)(5)(A). The case is REMANDED to permit the district court to make a ruling under Rule 4(a)(5). While the case is on this limited remand, Kramer's appeal and motions are held in abeyance. Upon ruling, the district court shall return the case to this court for dismissal or further proceedings, as may be appropriate.