

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

United States Court of Appeals
Fifth Circuit

FILED

January 10, 2017

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

DANNY VARNER,

Defendant-Appellant

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 6:13-CR-4-1

Before BENAVIDES, DENNIS, and PRADO, Circuit Judges.

PER CURIAM:*

Danny Varner pleaded guilty to possession with intent to distribute methamphetamine and was sentenced to 188 months of imprisonment and three years of supervised release. He contends that the district court plainly erred in applying the career offender enhancement. The Government contends that Varner's notice of appeal was untimely and his appeal should be dismissed.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

No. 15-40146

Varner's notice of appeal was filed well beyond the deadlines for filing a notice of appeal and requesting an extension of time. *See FED. R. APP. P. 4(b)(1)(A)(i), (b)(4).* When, as in this case, the Government objects to an untimely notice of appeal, we will not disregard the matter. *See Eberhart v. United States, 546 U.S. 12, 18 (2005).*

Varner's appeal is DISMISSED as untimely.