

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

No. 17-10127
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED
October 11, 2017
Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff–Appellee,

v.

EPITACIO CABRERA-CASTILLO, also known as Charangas,

Defendant–Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:16-CR-122-5

Before JOLLY, OWEN, and HAYNES, Circuit Judges.

PER CURIAM:*

Epitacio Cabrera-Castillo pleaded guilty to conspiracy to possess methamphetamine with intent to distribute, in violation of 21 U.S.C. § 846. The district court sentenced him to 360 months of imprisonment followed by four years of supervised release. On appeal, he challenges two conditions of supervised release imposed in the judgment. In response, the Government argues that this court should dismiss the appeal as untimely.

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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A defendant in a criminal case generally has 14 days from the entry of the judgment on the criminal docket to file a notice of appeal. FED. R. APP. P. 4(b)(1)(A)(i), (b)(6). That time limit is mandatory but not jurisdictional. *United States v. Martinez*, 496 F.3d 387, 388-89 (5th Cir. 2007). Cabrera-Castillo's notice of appeal was not filed in a timely manner. Although the requirements of Rule 4(b)(1)(A) may be waived, the Government has not waived the issue in the instant case. *See United States v. Hernandez-Gomez*, 795 F.3d 510, 511 (5th Cir. 2015) (per curiam) (holding that the Government does not waive its objection to the untimeliness of a notice of appeal by raising the issue for the first time in a brief on the merits).

Accordingly, the appeal is DISMISSED.