
No. 95-3778

United States of America,

Appellee,

v.

Raymond Gonzalez,

Appellant.

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* Appeal from the United States
* District Court for the
* Southern District of Iowa.

* [UNPUBLISHED]
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Submitted: August 1, 1996

Filed: August 8, 1996

Before BEAM, HANSEN, and MORRIS SHEPPARD ARNOLD, Circuit Judges.

PER CURIAM.

Raymond Gonzalez pleaded guilty to conspiring to distribute cocaine, and was sentenced to the mandatory minimum of 120 months imprisonment. The government later moved to reduce the sentence under 18 U.S.C. § 3553(e) and Federal Rule of Criminal Procedure 35(b). Within ten days after the district court¹ granted that motion, Gonzalez filed a motion which the court construed as a motion to reconsider the extent of the sentence reduction; the court denied the motion. Subsequently, Gonzalez moved for a further reduction in his sentence. Again, the court denied the motion, and Gonzalez appeals.

Gonzalez has not pointed to any source of authority for his latter motion, and under Rule 35(b), only the government may move for a reduction in sentence. See Fed. R. Crim. P. 35(b). Because

¹The Honorable R. E. Longstaff, United States District Judge for the Southern District of Iowa.

Gonzalez did not timely appeal from the court's denial of his motion to reconsider, we dismiss for lack of jurisdiction. See Fed. R. App. P. 4(b) (defendant in criminal case must file notice of appeal within ten days of court's entry of judgment); United States v. Ridl, 26 F.3d 73, 74 (8th Cir. 1994) (motion for reconsideration filed within appeal period is timely and tolls running of time for filing appeal in criminal case); United States v. Petty, 82 F.3d 809, 810 (8th Cir. 1996) (per curiam) (timely filing of notice of appeal is both mandatory and jurisdictional).

Accordingly, the appeal is dismissed.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.