

NOT FOR PUBLICATION

In the
United States Court of Appeals
For the Eleventh Circuit

No. 25-14431
Non-Argument Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ORENTHAL MARCEL BUTLER,

Defendant- Appellant.

Appeal from the United States District Court
for the Southern District of Florida
D.C. Docket No. 1:09-cr-21015-KMM-1

Before ROSENBAUM, JILL PRYOR, and GRANT, Circuit Judges.

PER CURIAM:

In this criminal case, the district court entered a final amended judgment against Orenthal Marcel Butler on July 27, 2015. Over several years, Butler filed a series of 28 U.S.C. § 2255

motions challenging his sentence, all denied either as meritless or as unauthorized second or successive motions. In 2023, Butler filed a motion for sentence reduction, which the court denied in an order entered on May 31, 2024.

In 2025, Butler, proceeding pro se, filed a document titled “Motion for 18 U.S.C. § 3742 (A) review.” The district court clerk construed this filing as a notice of appeal from the court’s May 31, 2024 order and transmitted it to us, opening the instant appeal.¹

We issued a jurisdictional question (“JQ”) asking the parties to address which ruling(s) the notice of appeal evinces an intent to appeal from and whether the notice is timely to challenge the ruling(s).

The government responds that we lack jurisdiction and moves to dismiss the appeal. It argues that because Butler has not identified or designated what order he is appealing from, he has failed to comply with Rule 3(c)(1)(B), so we must dismiss his appeal for lack of jurisdiction. Alternatively, it contends that Butler’s notice of appeal is untimely as to the May 31, 2024 order and should be dismissed.

Butler responds that we should reject the government’s arguments on Rule 3(c)(1) and untimeliness. First, he argues that the basis for his appeal is that his sentence and judgment were “illegal,”

¹ Because Butler’s construed notice of appeal was unsigned, we ordered Butler to file a substitute, signed notice of appeal; he has since filed a substitute notice of appeal that complies with our order.

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“impermissible,” and unconstitutional. Butler also contends that we should not dismiss his appeal for imperfections when it is clear what he is attempting to appeal from. Second, he argues that Federal Rule of Criminal Procedure 4(b)(1)(A)(i) does not bar his motion from review because Federal Rule of Criminal Procedure 51(b) grants him an exception to appeal.

Upon review of the record and the parties’ JQ responses, we conclude that Butler’s construed notice of appeal, liberally construed, is yet another attempt to challenge his July 27, 2015 amended judgment. Butler repeatedly referenced his sentence, judgment, and 18 U.S.C. § 3742 in his construed notice of appeal and JQ response but did not mention any of his previously filed motions or any court order. Thus, we take Butler at his word that he is attempting to challenge his sentence imposed in the 2015 amended judgment.

However, Butler’s construed notice of appeal, deemed filed under the prison mailbox rule on August 26, 2025, is untimely to challenge the judgment. Fed. R. App. P. 4(b)(1)(A) (explaining that, in criminal cases, a defendant must file a notice of appeal within 14 days after the entry of the order or judgment being appealed); *id.* R. 4(c)(1). Because the government raised the issue of timeliness, we must apply Rule 4(b)(1)(A)(i) and dismiss this appeal as untimely. *See United States v. Lopez*, 562 F.3d 1309, 1314 (11th Cir. 2009).

Accordingly, the motion to dismiss is GRANTED, and this appeal is DISMISSED as untimely.