

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-7248

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

GEORGE CHAMBERS,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Richmond. James R. Spencer, Chief District Judge. (3:94-cr-00089-JRS-1)

Submitted: November 20, 2008

Decided: December 1, 2008

Before MOTZ and GREGORY, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Remanded by unpublished per curiam opinion.

George Chambers, Appellant Pro Se. Richard Daniel Cooke, Joan Elizabeth Evans, Assistant United States Attorneys, Richmond, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

George Chambers seeks to appeal the district court's order denying his motion for reduction of sentence under 18 U.S.C. § 3582(c)(2) (2006). In criminal cases, the defendant must file the notice of appeal within ten days after the entry of judgment. Fed. R. App. P. 4(b)(1)(A); see United States v. Alvarez, 210 F.3d 309, 310 (5th Cir. 2000) (holding that § 3582 proceeding is criminal in nature and ten-day appeal period applies). With or without a motion, upon a showing of excusable neglect or good cause, the district court may grant an extension of up to thirty days to file a notice of appeal. Fed. R. App. P. 4(b)(4); United States v. Reyes, 759 F.2d 351, 353 (4th Cir. 1985).

The district court entered its order denying the motion for reduction of sentence on June 19, 2008. Chambers filed the notice of appeal, at earliest, on July 10, 2008,* after the ten-day period expired but within the thirty-day excusable neglect period. Because the notice of appeal was filed within the excusable neglect period, we remand the case to the district court for the court to determine whether Chambers has shown excusable neglect or good cause warranting an extension of the

* Because Chambers was then incarcerated and not represented by counsel, this filing date is determined pursuant to Houston v. Lack, 487 U.S. 266, 276 (1988).

ten-day appeal period. The record, as supplemented, will then be returned to this court for further consideration.

REMANDED