

FILED: December 16, 2024

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 24-4012
(8:19-cr-00338-DKC-1)

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

NOSAKHARE PETER OBAMOGIE,

Defendant - Appellant.

O R D E R

Nosakhare Obamogie seeks to appeal his conviction and sentence imposed following his guilty plea to conspiracy to commit wire fraud, in violation of 18 U.S.C. §§ 1343, 1349. The Government has moved to dismiss the appeal as untimely.

In criminal cases, the defendant must file the notice of appeal within 14 days after the entry of judgment. [Fed. R. App. P. 4\(b\)\(1\)\(A\)](#). With or without a motion, upon a showing of excusable neglect or good cause, the district court may grant an

extension of up to 30 days to file a notice of appeal. Fed. R. App. P. 4(b)(4). Although the appeal period in a criminal case is not a jurisdictional provision, but rather a claim-processing rule, *United States v. Urutyan*, 564 F.3d 679, 685 (4th Cir. 2009), “[w]hen the Government promptly invokes the rule in response to a late-filed criminal appeal, we must dismiss,” *United States v. Oliver*, 878 F.3d 120, 123 (4th Cir. 2017).

The district court entered judgment on November 29, 2023, and the appeal period expired on December 13, 2023. Obamogie filed the notice of appeal on December 14, 2023. Because the district court has not yet determined whether excusable neglect or good cause exist for Obamogie’s untimely filing, we defer ruling on the Government’s motion to dismiss the appeal and remand for the limited purpose of allowing the district court to determine whether Obamogie can make such a showing. The record, as supplemented, will then be returned to this Court for further consideration.

Entered at the direction of the panel: Judge Rushing, Judge Heytens, and Senior Judge Traxler.

For the Court

/s/ Nwamaka Anowi, Clerk