

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-6772

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

JOSEPH ANTHONY WALKER,

Defendant - Appellant.

Appeal from the United States District Court for the District of
South Carolina, at Charleston. David C. Norton, District Judge.
(2:02-cr-00522-DCN)

Submitted: August 31, 2006

Decided: September 8, 2006

Before MICHAEL, MOTZ, and GREGORY, Circuit Judges.

Remanded by unpublished per curiam opinion.

Joseph Anthony Walker, Appellant Pro Se. Brent Alan Gray, OFFICE
OF THE UNITED STATES ATTORNEY, Charleston, South Carolina, for
Appellee.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Joseph Anthony Walker appeals the district court's order denying his motion to modify his sentence under 18 U.S.C. § 3582(c) (2000). In criminal cases, a defendant must file his notice of appeal within ten days of the entry of judgment. Fed. R. App. P. 4(b)(1)(A). The district court, with or without a motion, may grant an extension of time to file a notice of appeal of up to thirty days upon a showing of excusable neglect or good cause. Fed. R. App. P. 4(b)(4); United States v. Reyes, 759 F.2d 351, 353 (4th Cir. 1985).

The district court entered judgment on March 31, 2006; the ten-day appeal period expired on April 14, 2006. Walker filed a notice of appeal after the ten-day appeal 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 Walker has shown excusable neglect or good cause warranting an extension of the ten-day appeal period. The record, as supplemented, will then be returned to this court for further consideration.

REMANDED