

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 09-6844

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

STANLEY HICKMAN,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. Terrence W. Boyle, District Judge. (5:93-cr-00144-BO-3)

Submitted: August 31, 2009

Decided: October 14, 2009

Before NIEMEYER and MICHAEL, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Remanded by unpublished per curiam opinion.

Stanley Hickman, Appellant Pro Se. Anne Margaret Hayes, Assistant United States Attorney, Robert Jack Higdon, Jr., OFFICE OF THE UNITED STATES ATTORNEY, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Stanley Hickman seeks to appeal the district court's order denying his motion to correct the presentence report. 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). 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 on March 25, 2009. Hickman filed the notice of appeal on April 23, 2009,* after the ten-day period expired but before the expiration of 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 Hickman 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

* See Houston v. Lack, 487 U.S. 266, 276 (1988).