

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 05-3988

United States of America,

Appellee,

v.

Larry Jackson,

Appellant.

*
*
*
*
*
*
*
*
*
*

Appeal from the United States
District Court for the
Northern District of Iowa.

[UNPUBLISHED]

Submitted: November 6, 2006
Filed: November 14, 2006

Before SMITH, MAGILL, and BENTON, Circuit Judges.

PER CURIAM.

Larry Jackson has filed an untimely notice of appeal (NOA) from the district court's September 26, 2005 denial of his 18 U.S.C. § 3582(c)(2) sentence-reduction motion. *See* Fed. R. App. P. 4(b)(1)(A) (10 days to appeal in criminal cases); *United States v. Petty*, 82 F.3d 809, 810 (8th Cir. 1996) (per curiam) (time limits for appealing in criminal cases apply to appeal from denial of § 3582(c)(2) motion). Because the NOA was due October 10, 2005, and is deemed filed October 19, *see* Fed. R. App. P. 4(c) (prison mailbox rule), it was less than thirty days late, and thus we remand to the district court to determine whether Jackson's failure to file a timely NOA was due to excusable neglect, and if so, whether the time for filing his NOA

should be extended. *See* Fed. R. App. P. 4(b)(4); *United States v. Austin*, 217 F.3d 595, 598 (8th Cir. 2000).
