

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-4544

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

DENNIS LEE WILLIAMS,

Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at Florence. C. Weston Houck, Senior District Judge. (4:02-cr-00806-CWH)

Submitted: March 28, 2007

Decided: April 27, 2007

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

Remanded by unpublished per curiam opinion.

W. James Hoffmeyer, LAW OFFICE OF W. JAMES HOFFMEYER, Florence, South Carolina, for Appellant. Arthur Bradley Parham, OFFICE OF THE UNITED STATES ATTORNEY, Florence, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Dennis Lee Williams appeals from his criminal judgment. Williams' counsel has filed a brief pursuant to Anders v. California, 386 U.S. 738 (1967). The Government has not filed a reply brief. Williams has filed a pro se supplemental brief. We remand for the district court to rule on Williams' pending motion for an extension of time to file his appeal.

Williams' judgment was entered on April 6, 2006. His notice of appeal was due on April 20, 2006. See Fed. R. App. P. 4(b), 26(a). Williams' counsel filed a notice of appeal on May 22, 2006. At the same time, counsel filed a motion for an extension of time to file a notice of appeal admitting that the appeal was late because he was appointed late in the proceedings and was not familiar enough with the case to file a timely appeal. The district court may grant an extension of time up to thirty days after the expiration of the appeal period, if there is a finding of good cause or excusable neglect. Fed. R. App. P. 4(b)(4). The district court only has authority, however, "to extend the time to file a notice of appeal for a period not to exceed thirty days from the expiration of the time otherwise prescribed by this Rule 4(b)." Fed. R. App. P. 4(b)(4). The time periods presented in Rule 4(b) are mandatory and jurisdictional. United States v. Raynor, 939 F.2d 191, 196 (4th Cir. 1991). Williams' counsel filed his notice

of appeal and motion for an extension of time on the last day of the excusable neglect period.

Accordingly, we remand the case to the district court to rule on Williams' pending motion for an extension of time to file the appeal. The record, as supplemented, will then be returned to this court for further consideration.

REMANDED