

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 07-6334

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

VINCENT B. BEST,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of North Carolina, at Charlotte. Graham C. Mullen, Senior District Judge. (3:93-cr-00216-3)

Submitted: June 15, 2007

Decided: June 22, 2007

Before WIDENER, MICHAEL, and KING, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Vincent B. Best, Appellant Pro Se. Amy Elizabeth Ray, OFFICE OF THE UNITED STATES ATTORNEY, Asheville, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Vincent B. Best seeks to appeal the district court's order denying his "petition for clarification determination" of the court's prior order denying in part and granting in part his motion for reduction of sentence under 18 U.S.C.A. § 3582 (West 2000 & Supp. 2007). 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); see United States v. Alvarez, 210 F.3d 309, 310 (5th Cir. 2000) (holding that § 3582 proceeding is criminal in nature and ten-day appeal period applies). 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 denying Best's petition for clarification on August 17, 2006. The notice of appeal was filed on February 9, 2006.* Because Best failed to file a timely notice of appeal or to obtain an extension of the appeal period, we dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in

*See Fed. R. App. P. 4(c); Houston v. Lack, 487 U.S. 266 (1988).

the materials before the court and argument would not aid the decisional process.

DISMISSED