

UNPUBLISHEDUNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 07-6569

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

CLINTON DESHANNON MYERS,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of Virginia, at Roanoke. James C. Turk, Senior District Judge. (7:05-cr-00096-jct)

Submitted: August 31, 2007

Decided: September 13, 2007

Before MICHAEL and KING, Circuit Judges, and WILKINS, Senior Circuit Judge.

Remanded by unpublished per curiam opinion.

Clinton Deshannon Myers, Appellant Pro Se. Ronald Andrew Bassford, OFFICE OF THE UNITED STATES ATTORNEY, Roanoke, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Clinton Deshannon Myers seeks to appeal the district court order denying his motions to reopen the time to file a notice of appeal from his criminal judgment and for production of transcripts. In criminal cases, the defendant must file the notice of appeal within ten days after "the entry of either the judgment or the order being appealed." Fed. R. App. P. 4(b)(1)(A)(i). 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 9, 2007. Myers' undated notice of appeal was postmarked on April 11, 2007, after the ten-day 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 Myers 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