

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-6530

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

EUGENE COOPER,

Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at Florence. C. Weston Houck, Senior District Judge. (4:00-cr-01033-CWH-2)

Submitted: July 21, 2009

Decided: September 3, 2009

Before TRAXLER, Chief Judge, and MICHAEL and DUNCAN, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Eugene Cooper, Appellant Pro Se. Rose Mary Sheppard Parham, Assistant United States Attorney, Florence, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Eugene Cooper appeals the district court's order denying his motion for clarification of the denial of a sentence reduction for substantial assistance.* We have reviewed the record and find no reversible error. Accordingly, we affirm for the reasons stated by the district court. See United States v. Cooper, No. 4:00-cr-01033-CWH-2 (D.S.C. Feb. 20, 2008). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED

* On our initial remand for a determination of excusable neglect or good cause under Fed. R. App. P. 4(b)(4), the district court found no excusable neglect based on its assessment of the merits of the appeal. Such a merits review of its own order is not the purpose of a limited remand under Rule 4(b)(4). However, because the time limits of Rule 4(b) are not jurisdictional, see Bowles v. Russell, 551 U.S. 205, ___, 127 S. Ct. 2360, 2363-66 (2007); United States v. Urutyanyan, 564 F.3d 679, 683-86 (4th Cir. 2009), and the Government has not moved to dismiss the appeal as untimely, we decline to dismiss the appeal as untimely and instead address the merits of the motion for clarification.