

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-6665

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DENITRA CARMITA LEWIS,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of Virginia, at Harrisonburg. Glen E. Conrad, District Judge. (5:06-cr-00057-gee-jgw-4)

Submitted: June 30, 2008

Decided: July 8, 2008

Before WILKINSON, TRAXLER, and KING, Circuit Judges.

Remanded by unpublished per curiam opinion.

Denitra Carmita Lewis, Appellant Pro Se. Edward Albert Lustig, OFFICE OF THE UNITED STATES ATTORNEY, Roanoke, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Denitra Carmita Lewis seeks to appeal the district court's order denying her motion for reduction of sentence pursuant to 18 U.S.C. § 3582(c)(2) (2000). In a criminal case, a notice of appeal must be filed within ten days after the order appealed from is entered. See Fed. R. App. P. 4(b)(1)(A). However, with or without a motion, the district court may extend the time to file a notice of appeal for an additional thirty days upon a finding of excusable neglect or good cause. Fed. R. App. P. 4(b)(4); United States v. Reyes, 759 F.2d 351, 353 (4th Cir. 1985).

While the district court dismissed Lewis' motion for sentence reduction on March 12, 2008, the district court identified March 22, 2008, as the "effective date" of the order. On April 21, 2008, Lewis filed a notice of appeal.* While the notice of appeal was filed after the ten-day appeal period expired, it was filed within the thirty-day excusable neglect period. Therefore, we remand the case to the district court for a determination as to whether Lewis has shown excusable neglect or good cause warranting an extension of the appeal period. The record, as supplemented, will then be returned to this court for further consideration. We dispense with oral argument because the facts and legal contentions

*See Houston v. Lack, 487 U.S. 266, 276 (1988).

are adequately presented in the materials before the court and argument would not aid the decisional process.

REMANDED