

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-6818

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

KALI A. HILL, a/k/a Eldridge L. Hill, a/k/a Kali, a/k/a Fly,

Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at Charleston. Patrick Michael Duffy, District Judge. (2:03-cr-00162-PMD-1)

Submitted: February 26, 2009

Decided: March 4, 2009

Before NIEMEYER, MICHAEL, and GREGORY, Circuit Judges.

Remanded by unpublished per curiam opinion.

Kali A. Hill, Appellant Pro Se. Peter Thomas Phillips, Assistant United States Attorney, Charleston, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Kali A. Hill seeks to appeal the district court's order summarily denying his motion to clarify the presentence report. 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). 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 May 1, 2008. Hill filed the notice of appeal on May 16, 2008,* 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 grant leave to proceed in forma pauperis and remand the case to the district court for the court to determine whether Hill has shown excusable neglect or good cause warranting an extension of the ten-day appeal period. The

* For the purpose of this appeal, we assume that the date appearing on the notice of appeal is the earliest date it could have been properly delivered to prison officials for mailing to the court. Fed. R. App. P. 4(c); Houston v. Lack, 487 U.S. 266 (1988).

record, as supplemented, will then be returned to this court for further consideration.

REMANDED