

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-7213

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

GREGORY JARROD ARTIS,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Robert G. Doumar, Senior District Judge. (2:99-cr-00046-RGD-2)

Submitted: February 24, 2009

Decided: March 24, 2009

Before NIEMEYER, MICHAEL, and DUNCAN, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Gregory Jarrod Artis, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Gregory Jarrod Artis seeks to appeal the district court's order denying its own motion for reduction of sentence under 18 U.S.C. § 3582(c)(2) (2006). 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 the motion for reduction of sentence on April 28, 2008. The notice of appeal was filed, at the earliest, on June 18, 2008. Because Artis failed to file a timely notice of appeal or to obtain an extension of the appeal period,* we deny leave to proceed in forma pauperis and dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately

* Artis' motion for reconsideration of the April 28, 2008 judgment was dated on May 13, 2008, one day beyond the ten-day appeal period. Thus, it did not extend the time in which Artis had to file a notice of appeal. See United States v. Ibarra, 502 U.S. 1, 4 n.2 (1991).

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

DISMISSED