

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 08-7577**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

RONALD A. JENNINGS,

Defendant - Appellant.

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Appeal from the United States District Court for the Eastern District of Virginia, at Richmond. Richard L. Williams, Senior District Judge. (3:02-cr-00400-RLW-1)

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Submitted: December 17, 2008

Decided: January 8, 2009

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Before NIEMEYER and TRAXLER, Circuit Judges, and HAMILTON, Senior Circuit Judge.

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Remanded by unpublished per curiam opinion.

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Ronald A. Jennings, Appellant Pro Se. Michael Arlen Jagels, Special Assistant United States Attorney, Stephen Wiley Miller, Assistant United States Attorney, Richmond, Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Ronald A. Jennings seeks to appeal the district court's order denying his motion for reduction of sentence under 18 U.S.C.A. § 3582(c)(2) (2006). In criminal cases, the defendant must file the notice of appeal within ten days after the entry of the order being appealed. Fed. R. App. P. 4(b)(1)(A); see United States v. Alvarez, 210 F.3d 309, 310 (5th Cir. 2000) (holding that § 3582(c)(2) 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 July 11, 2008. Jennings filed the notice of appeal, at the earliest, on July 29, 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 remand the case to the district court for the limited purpose of allowing the court to determine whether Jennings has shown excusable neglect or good cause warranting an extension of the ten-day appeal period.

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

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

REMANDED