

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 09-6092

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MICHAEL J. THOMPSON,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. T. S. Ellis, III, Senior District Judge. (1:05-cr-00480-TSE-1)

Submitted: December 14, 2009

Decided: December 29, 2009

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

Affirmed by unpublished per curiam opinion.

Michael J. Thompson, Appellant Pro Se. Christina Lundberg Medzius, OFFICE OF THE UNITED STATES ATTORNEY, Alexandria, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Michael J. Thompson challenges the district court's order granting the Government's Fed. R. Crim. P. 35(b) motion.* We have reviewed the record and find no reversible error. Accordingly, we deny the Government's motion to dismiss Thompson's appeal and affirm the district court's order. United States v. Thompson, No. 1:05-cr-00480-TSE-1 (E.D. Va. filed Dec. 5, 2008; entered Dec. 8, 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

* Thompson did not appeal the district court's order within the requisite ten-day appeal period and the Government moved to dismiss the appeal. Because Thompson asserted that he did not receive notice of the district court's order until after his time to appeal expired, and because Thompson filed his notice of appeal within the thirty-day excusable neglect period, this court remanded the matter to the district court for an excusable neglect determination. On remand, the district court determined that Thompson established excusable neglect for his untimely filing, and the matter has been returned for this court's consideration.