

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 09-6526

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

CEDRICK L. SNIPES,

Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at Charleston. Patrick Michael Duffy, District Judge. (2:05-cr-00718-PMD-1)

Submitted: October 20, 2009

Decided: October 26, 2009

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

Remanded by unpublished per curiam opinion.

Cedrick L. Snipes, 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Unpublished opinions are not binding precedent in this circuit.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:

Cedrick L. Snipes seeks to appeal the district court's order granting his 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 § 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 on February 27, 2009. Snipes's undated notice of appeal was mailed in an envelope bearing a postmark of March 18, 2009, see Houston v. Lack, 487 U.S. 266 (1988), a date beyond the ten-day appeal period 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 court to determine whether Snipes has shown excusable neglect or good cause warranting an extension of the ten-day appeal period. The record, as supplemented, will then be returned to this court for further consideration.

REMANDED