

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 09-6722

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JASMINE ROCHELLES ROBESON,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of North Carolina, at Charlotte. Graham C. Mullen, Senior District Judge. (3:02-cr-00140-GCM-2)

Submitted: June 18, 2009

Decided: June 25, 2009

Before NIEMEYER, GREGORY, and DUNCAN, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Jasmine Rochells Robeson, Appellant Pro Se. Amy Elizabeth Ray, Assistant United States Attorney, Asheville, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Jasmine Rochells Robeson seeks to appeal the district court's order granting her motion for reduction of sentence under 18 U.S.C. § 3582 (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 September 8, 2008. The notice of appeal was filed, at the earliest, on April 2, 2009. Houston v. Lack, 487 U.S. 266, 276 (1988). Because Robeson failed to file a timely notice of appeal or to obtain an extension of the appeal period, we grant the Government's motion to dismiss the appeal as untimely filed and dismiss the appeal. 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.

DISMISSED