

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 09-6798

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DWIGHT LAMONT HUNTER, a/k/a Dee,

Defendant - Appellant.

Appeal from the United States District Court for the Western
District of North Carolina, at Charlotte. Graham C. Mullen,
Senior District Judge. (3:94-cr-00111-GCM-12)

Submitted: November 4, 2009

Decided: November 17, 2009

Before MICHAEL, MOTZ, and GREGORY, Circuit Judges.

Remanded by unpublished per curiam opinion.

Dwight Lamont Hunter, 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Unpublished opinions are not binding precedent in this circuit.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:

Dwight Lamont Hunter seeks to appeal the district court's order denying his motion filed under 18 U.S.C. § 3582(c) (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). 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 judgment on April 8, 2009. Hunter filed the notice of appeal on April 28, 2009, 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 court to determine whether Hunter 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