

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 09-6905

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

BOBBY JAMES BROWN,

Defendant - Appellant.

Appeal from the United States District Court for the District of Maryland, at Baltimore. Andre M. Davis, District Judge. (1:00-cr-00100-AMD-1)

Submitted: August 6, 2009

Decided: September 2, 2009

Before WILKINSON, KING, and SHEDD, Circuit Judges.

Remanded by unpublished per curiam opinion.

Bobby James Brown, Appellant Pro Se. Rod J. Rosenstein, United States Attorney, Baltimore, Maryland, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Bobby James Brown seeks to appeal the district court's orders denying his 18 U.S.C. § 3582(c)(2) (2006) motion and his motion for reconsideration. 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).

In an order filed on April 13, 2009, and entered on April 14, 2009, the district court denied Brown's § 3582(c)(2) motion. The order denying Brown's motion for reconsideration was entered on April 22, 2009. Brown's notice of appeal, dated May 11, 2009, was filed on May 13, 2009, after the ten-day period expired but within the thirty-day excusable neglect period. Because Brown filed the notice of appeal within the excusable neglect period, we remand the case to the district court for the court to determine whether Brown has shown excusable neglect or good cause warranting an extension of the ten-day appeal period. The record, supplemented, will then be returned to this court for further consideration.

REMANDED