

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 09-7603

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

GEORGE LEONARD SMITH,

Defendant - Appellant.

Appeal from the United States District Court for the Northern
District of West Virginia, at Clarksburg. Irene M. Keeley,
District Judge. (1:05-cr-00015-IMK-JSK-1)

Submitted: February 11, 2010

Decided: February 26, 2010

Before KING, SHEDD, and DUNCAN, Circuit Judges.

Dismissed by unpublished per curiam opinion.

George Leonard Smith, Appellant Pro Se. Shawn Angus Morgan,
Assistant United States Attorney, Clarksburg, West Virginia, for
Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

George Smith seeks to appeal the district court's order denying his motion for reduction of sentence under 18 U.S.C. § 3582 (2006).¹ After entry of the district court's order, Smith had ten days to file his notice of appeal. Fed. R. App. P. 4(b)(1)(A) (2008) (amended Dec. 1, 2009);² 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 July 25, 2008. The notice of appeal was filed on August 24, 2009. Because Smith failed to file a timely notice of appeal or to obtain an extension of the appeal period, we dismiss the appeal. We dispense with oral

¹ We have confined our review to the issue raised in Smith's informal brief. See 4th Cir. R. 34(b).

² On December 1, 2009, the ten-day appeal period became fourteen days. This change does not affect our analysis or disposition of this appeal.

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