

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 12-6318**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MICHAEL CASSANOVA DYSON,

Defendant - Appellant.

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Appeal from the United States District Court for the Northern District of West Virginia, at Wheeling. Frederick P. Stamp, Jr., Senior District Judge. (5:09-cr-00021-FPS-JES-6)

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Submitted: January 24, 2013

Decided: March 15, 2013

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Before WILKINSON, KING, and KEENAN, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Michael Cassanova Dyson, Appellant Pro Se. John Castle Parr, Michael D. Stein, Assistant United States Attorneys, Wheeling, West Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Michael Cassanova Dyson seeks to appeal the district court's order denying his 18 U.S.C. § 3582(c)(2) (2006) motion to reduce his sentence pursuant to Amendment 750 to the U.S. Sentencing Guidelines Manual (2011). In criminal cases, the defendant must file the notice of appeal within fourteen days after the entry of judgment. Fed. R. App. P. 4(b)(1)(A); see United States v. Goodwyn, 596 F.3d 233, 235 n.\* (4th Cir. 2010) (explaining that proceedings pursuant to § 3582 are "criminal in nature"). With or without a motion, upon a showing of excusable neglect or good cause, the district court may extend the appeal period by up to thirty days. 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 Dyson's § 3582(c)(2) motion on January 18, 2012. Dyson filed the notice of appeal, at the earliest, on February 16, 2012.\* Because Dyson failed to file a timely notice of appeal or obtain an extension of the appeal period, we remanded this case to allow the district court to determine whether Dyson could demonstrate excusable neglect or good cause to justify extending the appeal

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\* For the purpose of this appeal, we assume that the date appearing on the notice of appeal is the earliest date it could have been properly delivered to prison officials for mailing to the court. Fed. R. App. P. 4(c)(1); Houston v. Lack, 487 U.S. 266 (1988).

period. In accordance with our remand order, the district court received evidence pertaining to the issue and determined that Dyson failed to make the requisite showing.

We have thoroughly reviewed the record and agree that Dyson has failed to demonstrate excusable neglect or good cause justifying a relaxation of the fourteen-day appeal period. See generally Bowles v. Russell, 551 U.S. 205, 209-14 (2007); United States v. Mitchell, 518 F.3d 740, 750 (10th Cir. 2008). Accordingly, we dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

DISMISSED