

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 12-7794

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DEMOND JACKSON, a/k/a D.J.,

Defendant - Appellant.

Appeal from the United States District Court for the Southern District of West Virginia, at Huntington. Robert C. Chambers, Chief District Judge. (3:99-cr-00015-5)

Submitted: February 20, 2013

Decided: April 10, 2013

Before WILKINSON, NIEMEYER, and SHEDD, Circuit Judges.

Affirmed in part; dismissed in part by unpublished per curiam opinion.

Demond Jackson, Appellant Pro Se. Richard Gregory McVey, Assistant United States Attorney, Huntington, West Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Demond Andre Jackson appeals from the district court's order denying the court's own 18 U.S.C. § 3582 (2006) motion for reduction of sentence under the 2011 amendments to the Sentencing Guidelines and denying Jackson's motion for reconsideration. The court's initial order was entered on January 13, 2012, and Jackson's notice of appeal was untimely filed, at the earliest, on October 5. We thus dismiss the appeal of this order as untimely. See Fed. R. App. P. 4(b)(1)(A) (providing for fourteen day appeal period in criminal case); see also United States v. Mitchell, 518 F.3d 740, 750 (10th Cir. 2008) (recognizing that court may raise timeliness of criminal appeal sua sponte).

While Jackson's appeal from the denial of his motion for reconsideration was timely filed, the district court was without jurisdiction to consider a motion for reconsideration in a § 3582 proceeding. See United States v. Goodwyn, 596 F.3d 233, 235-36 (4th Cir. 2010). Accordingly, we affirm the denial of this motion. 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.

AFFIRMED IN PART;
DISMISSED IN PART