

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 13-7257

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JIMMIE VANCE GRUBBS,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of North Carolina, at Charlotte. Robert J. Conrad, Jr., District Judge. (3:06-cr-00048-RJC-CH-1; 3:11-cv-00125-RJC)

Submitted: December 19, 2013

Decided: January 7, 2014

Before MOTZ, SHEDD, and AGEE, Circuit Judges.

Remanded by unpublished per curiam opinion.

Jimmie Vance Grubbs, Appellant Pro Se. Kimlani M. Ford, Assistant United States Attorney, Charlotte, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Jimmie Vance Grubbs seeks to appeal the district court's order dismissing his 28 U.S.C. § 2255 (2012) motion. In civil cases in which the United States or its officer or agency is a party, parties have sixty days after the entry of the district court's final judgment or order to file a notice of appeal. Fed. R. App. P. 4(a)(1)(B). A district court may extend the time to file a notice of appeal upon a party's motion for an extension filed within thirty days after the expiration of the original appeal period and a showing of excusable neglect or good cause warranting an extension. Fed. R. App. P. 4(a)(5)(A); Washington v. Bumgarner, 882 F.2d 899, 900-01 (4th Cir. 1989).

Grubbs' sixty-day appeal period expired on July 16, 2013. See Fed. R. App. P. 4(a)(1)(B). Grubbs' notice of appeal was filed, at the earliest, on July 30, 2013, outside the sixty-day appeal period but within the thirty-day excusable neglect period. Because Grubbs specifically sought additional time to file an appeal, we construe Grubbs' notice of appeal as a Rule 4(a)(5) motion for extension of time.

Accordingly, we remand this case to the district court for the limited purpose of determining whether Grubbs has demonstrated excusable neglect or good cause warranting an

extension of the appeal period. The record, as supplemented, will then be returned to this court for further consideration.

REMANDED