

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 13-8049

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JUAN JOSE BALTAZAR,

Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at Greenville. Henry M. Herlong, Jr., Senior District Judge. (6:06-cr-00998-HMH-4)

Submitted: April 17, 2014

Decided: April 22, 2014

Before WILKINSON, KING, and DUNCAN, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Juan Jose Baltazar, Appellant Pro Se. Jimmie Ewing, Assistant United States Attorney, Columbia, South Carolina, Leesa Washington, Assistant United States Attorney, Greenville, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Juan Jose Baltazar seeks to appeal from his 2007 convictions for possession of a firearm in furtherance of a drug trafficking crime, in violation of 18 U.S.C. § 924(c)(1)(A) (2006), and possession with intent to distribute methamphetamine, cocaine and marijuana, in violation of 21 U.S.C. § 841 (2006). The Government has moved to dismiss the appeal as untimely. We grant the Government's motion and dismiss Baltazar's appeal.

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). "When the government properly objects to the untimeliness of a defendant's criminal appeal, Rule 4(b) is mandatory and inflexible." See United States v. Frias, 521 F.3d 229, 234 (2d Cir. 2008) (citations omitted).

* In 2009, Rule 4(b) was amended and the time for filing a notice of appeal was extended from ten to fourteen days. Because Baltazar was sentenced in 2007, the prior version of the Rule applies.

The district court entered the criminal judgment against Baltazar on May 14, 2007. The notice of appeal was deemed filed on December 18, 2013. See Houston v. Lack, 487 U.S. 266, 276 (1988). Because Baltazar failed to file a timely notice of appeal, we grant the Government's motion and 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