

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 14-4223

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

CHAUNCEY HAWKINS, a/k/a Loon,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. James C. Fox, Senior District Judge. (5:11-cr-00135-F-1)

Submitted: November 20, 2014

Decided: November 24, 2014

Before KING and KEENAN, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Neal Gary Rosensweig, NEIL GARY ROSENSWEIG, P.A., Hollywood, Florida, for Appellant. Jennifer P. May-Parker, Assistant United States Attorney, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Chauncey Hawkins seeks to appeal his conviction and the 168-month sentence imposed after he pled guilty to conspiracy to possess with intent to distribute and to distribute one kilogram or more of heroin, in violation of 21 U.S.C. § 846 (2012). Hawkins' counsel has filed a brief pursuant to Anders v. California, 386 U.S. 738 (1967), certifying that there are no meritorious grounds for appeal but questioning the voluntariness of Hawkins' guilty plea and the reasonableness of the sentence. Hawkins has filed a pro se supplemental brief. The Government moves to dismiss the appeal as untimely, which Hawkins opposes.* We dismiss the appeal.

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). 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

* In his pro se response to the motion to dismiss, Hawkins asserts that his trial counsel failed to file a notice of appeal after being directed to do so and that, as a result, we should consider his appeal on the merits. We decline to do so. Hawkins should present his ineffective assistance of counsel claim, if at all, in a 28 U.S.C. § 2255 (2012) motion filed in the district court. We express no view on the ultimate disposition of any such motion.

appeal. Fed. R. App. P. 4(b)(4); United States v. Reyes, 759 F.2d 351, 353 (4th Cir. 1985).

The district court entered judgment on July 25, 2013. The notice of appeal was filed on March 10, 2014. Because Hawkins failed to file a timely notice of appeal or to obtain an extension of the appeal period, we grant the Government's motion to dismiss the appeal.

Accordingly, we dismiss the appeal as untimely. We deny without prejudice counsel's motion to withdraw. This court requires that counsel inform Hawkins, in writing, of the right to petition the Supreme Court of the United States for further review. If Hawkins requests that a petition be filed, but counsel believes that such a petition would be frivolous, then counsel may move in this court for leave to withdraw from representation. Counsel's motion must state that a copy thereof was served on Hawkins. 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