

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 17-4729

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

KIMBERLY DAWN PALMER,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of North Carolina,
at Asheville. Martin K. Reidinger, District Judge. (1:06-cr-00043-MR-DLH-4)

Submitted: May 21, 2018

Decided: May 25, 2018

Before DIAZ and HARRIS, Circuit Judges, and SHEDD, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Aaron E. Michel, Charlotte, North Carolina, for Appellant. Amy Elizabeth Ray,
Assistant United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY,
Asheville, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Kimberly Dawn Palmer appeals the 168-month sentence imposed following her guilty plea to conspiracy to manufacture and possess with intent to distribute methamphetamine, in violation of 21 U.S.C. §§ 841, 846 (2012). The Government has moved to dismiss the appeal as untimely. For the reasons that follow, we grant the motion and dismiss the appeal.*

In criminal cases, the defendant must file the notice of appeal within 14 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 30 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). Although the appeal period in a criminal case is not a jurisdictional provision, but rather a claim-processing rule, *see United States v. Urutyan*, 564 F.3d 679, 685 (4th Cir. 2009), “[w]hen the Government promptly invokes the rule in response to a late-filed criminal appeal, we must dismiss,” *United States v. Oliver*, 878 F.3d 120, 123 (4th Cir. 2017).

The district court entered judgment on December 22, 2014. Palmer filed her notice of appeal on May 8, 2017. Because Palmer failed to file a timely notice of appeal,

* The district court initially treated Palmer’s notice of appeal from her criminal judgment as a motion and denied relief. On appeal from that decision, we ordered a limited remand to docket Palmer’s May 2017 pleading as a notice of appeal from the December 2014 criminal judgment. *United States v. Palmer*, 704 F. App’x 267 (4th Cir. 2017). It is from this posture that the instant appeal was filed.

her appeal is untimely. And because the Government has promptly invoked Rule 4(b)'s time limitation, we grant the Government's motion and dismiss Palmer's 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