

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 19-7838

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

RICKY O'NEAL JONES,

Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at Aiken.
Margaret B. Seymour, Senior District Judge. (1:05-cr-00057-MBS-1)

Submitted: March 16, 2021

Decided: April 2, 2021

Before NIEMEYER and FLOYD, Circuit Judges, and TRAXLER, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Ricky O'Neal Jones, Appellant Pro Se. Kathleen Michelle Stoughton, Assistant United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Columbia, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Ricky O’Neal Jones seeks to appeal the district court’s order granting in part and denying in part his 18 U.S.C. § 3582(c)(1)(B) motion for reduction of sentence under § 404(b) of the First Step Act of 2018, Pub. L. No. 115-391, 132 Stat. 5194, 5222. We dismiss the appeal.

In criminal cases, *see United States v. Goodwyn*, 596 F.3d 233, 235 n.* (4th Cir. 2010) (“[Section] 3582 motions . . . are criminal in nature.”), a defendant must file his notice of appeal within 14 days after the entry of judgment, Fed. R. App. P. 4(b)(1)(A)(i). 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. May*, 855 F.3d 271, 275 n.3 (4th Cir. 2017). The district court entered the order granting in part and denying in part Jones’ motion on July 16, 2019. Jones’ notice of appeal was filed on December 9, 2019.*

Jones’ appeal notice is thus untimely, and he has not obtained an extension of the appeal period. Further, although the appeal period in a criminal case is not a jurisdictional provision, but, rather, a claim-processing rule, *United States v. Urutyay*, 564 F.3d 679, 685 (4th Cir. 2009), we conclude that, because the district court later granted Jones’ reconsideration motion and reduced his prison term and supervised release terms,

* For the purpose of this appeal, we assume that the date appearing on the notice of appeal is the earliest date it could have been properly delivered to prison officials for mailing to the district court. Fed. R. App. P. 4(c); *Houston v. Lack*, 487 U.S. 266, 276 (1988).

extraordinary circumstances meriting sua sponte dismissal of the appeal are present. *See United States v. Oliver*, 878 F.3d 120, 123, 128-29 & n.3 (4th Cir. 2017).

We therefore 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