

UNPUBLISHED

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

SEAN ANDRE WILSON,
Defendant-Appellant.

No. 01-6018

Appeal from the United States District Court
for the District of Maryland, at Baltimore.
J. Frederick Motz, Chief District Judge.
(CR-90-135-JFM)

Submitted: March 13, 2001

Decided: May 10, 2001

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

Remanded by unpublished per curiam opinion.

COUNSEL

Sean Andre Wilson, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit. See
Local Rule 36(c).

OPINION

PER CURIAM:

Sean Andre Wilson seeks to appeal the district court's order denying his motion for reduction of sentence under 18 U.S.C.A. § 3582 (West 2000). In criminal cases, the defendant must file his notice of appeal within ten days of the entry of judgment. Fed. R. App. P. 4(b)(1)(A); *United States v. Alvarez*, 210 F.3d 309, 310 (5th Cir. 2000) (holding that § 3582 proceeding is criminal in nature and ten-day appeal period applies and collecting cases adopting rule). With or without a motion, the district court may grant an extension of time to file of up to thirty days upon a showing of excusable neglect or good cause. Fed. R. App. P. 4(b)(4); *United States v. Reyes*, 759 F.2d 351, 353 (4th Cir. 1985).

The district court entered its order on December 8, 2000, *see* Fed. R. App. P. 4(b)(6); the ten-day appeal period expired on December 18, 2000. Under *Houston v. Lack*, 487 U.S. 266, 276 (1988), Wilson filed his notice of appeal after the ten-day appeal period expired but within the thirty-day excusable neglect period. Because Wilson's notice of appeal was filed within the excusable neglect period, we remand the case to the district court for the court to determine whether Wilson has shown excusable neglect or good cause warranting an extension of the ten-day appeal period. The record, as supplemented, will then be returned to this court for further consideration.

REMANDED