

UNPUBLISHED  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

UNITED STATES OF AMERICA, <i>Plaintiff-Appellee,</i>  v.  AKIN AKINKOYE, <i>Defendant-Appellant.</i>
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No. 01-6438

Appeal from the United States District Court  
for the District of Maryland, at Greenbelt.  
Peter J. Messitte, District Judge.  
(CR-97-151-PJM)

Submitted: July 26, 2001

Decided: August 3, 2001

Before WILKINS, LUTTIG, and TRAXLER, Circuit Judges.

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Remanded by unpublished per curiam opinion.

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**COUNSEL**

Akin Akinkoye, Appellant Pro Se. Steven Michael Dettelbach,  
OFFICE OF THE UNITED STATES ATTORNEY, Greenbelt, Mary-  
land, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.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

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**OPINION**

## PER CURIAM

Akinbobola Akinkoye seeks to appeal the district court's order denying his motion to compel counsel to produce pretrial discovery and trial motions. The district court entered an order denying Akinkoye's motion on October 5, 2000. However, Akinkoye did not file a notice of appeal until March 6, 2001, in which he indicated that he did not receive notice of the order to be appealed until that day. Where, as here, a pro se appellant files an untimely notice of appeal offering some excuse for its untimeliness, that notice is properly construed as a motion to reopen the time to note an appeal under Fed. R. App. P. 4(a)(6). *See United States v. Fuever*, 236 F.3d 725, 729 n.7 (D.C. Cir. 2001). Accordingly, we remand the case to the district court for the court to determine whether Akinkoye can satisfy the requirements of Rule 4(a)(6). *See Ogden v. San Juan Cnty.*, 32 F.3d 452, 454 (10th Cir. 1994). The record, as supplemented, will then be returned to this court for further consideration.

*REMANDED*