

UNPUBLISHED

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 03-6242**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

MICHAEL ANTOINE JEFFERIES,

Defendant - Appellant.

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Appeal from the United States District Court for the Western District of North Carolina, at Charlotte. Richard L. Voorhees, District Judge. (CR-97-264, CR-97-290)

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Submitted: July 23, 2003

Decided: August 25, 2003

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Before WIDENER, NIEMEYER, and GREGORY, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Michael Antoine Jefferies, Appellant Pro Se. Robert James Conrad, Jr., United States Attorney, Charlotte, North Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Michael Antoine Jefferies seeks to appeal the district court's order, dated February 11, 2003,\* denying his motion for reconsideration of the district court's December 31, 2002 order denying his post-conviction motion to compel the Government to file a Federal Rule of Criminal Procedure 35(b) motion.

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). Jefferies filed a motion to reconsider with the district court on January 8, 2003. This motion tolled the running of the time period to appeal, and thus the ten-day period began to run from the date of the district court's disposition of the motion. United States v. Christy, 3 F.3d 765, 767 n.1 (4th Cir. 1993); see generally United States v. Ibarra, 502 U.S. 1, 4 n.2 (1991).

The district court entered an order denying Jefferies' motion for reconsideration on February 11, 2003; the ten-day appeal period thus expired on February 26, 2003. Jefferies states he mailed his informal brief to this court on March 6, 2003. We construe this informal brief as a notice of appeal from the February 11, 2003 order. See Smith v. Barry, 502 U.S. 244 (1992). As such, Jefferies filed his notice of appeal after the ten-day appeal period expired.

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\* This is the only order that Jefferies attacks in his informal brief filed in this Court. See 4th Cir. R. 34(b).

Jefferies has not alleged excusable neglect for his untimely notice of appeal. We therefore dismiss the appeal for lack of jurisdiction. We dispense with oral argument because the facts and legal contentions of the parties are adequately presented in the materials before the Court and argument would not aid the decisional process.

DISMISSED