

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 03-6992**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

JOHN WESLEY FAIRCLOTH,

Defendant - Appellant.

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Appeal from the United States District Court for the Eastern District of North Carolina, at Wilmington. Malcolm J. Howard, District Judge. (CR-95-72-H)

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Submitted: August 14, 2003

Decided: August 22, 2003

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Before WILLIAMS, KING, and GREGORY, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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John Wesley Faircloth, Appellant Pro Se. Rudolf A. Renfer, Jr., Assistant United States Attorney, Raleigh, North Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

John Wesley Faircloth seeks to appeal the district court's order denying his motion for reduction of sentence under 18 U.S.C.A. § 3582(c)(2) (2000). We dismiss the appeal for lack of jurisdiction.

In criminal matters, the defendant must file his notice of appeal within ten days of the entry of judgment. Fed. R. App. P. 4(b)(1)(A); see United States v. Alvarez, 210 F.3d 309, 310 (5th Cir. 2000). 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 February 17, 2003; the ten-day appeal period expired on March 3, 2003. Faircloth's notice of appeal was postmarked May 27, 2003, and received by the district court on May 29, 2003, well beyond the expiration of the ten-day appeal period and thirty-day excusable neglect period.

Accordingly, we dismiss the appeal for lack of jurisdiction. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED