

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 03-7180

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

STEVE ALLEN STEELMAN,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of North Carolina, at Statesville. Richard L. Voorhees, District Judge. (CR-94-11-V)

Submitted: February 2, 2004

Decided: July 27, 2004

Before WIDENER, MOTZ, and KING, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Steve Allen Steelman, Appellant Pro Se. Jennifer Marie Hoefling, Assistant United States Attorney, Charlotte, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Steve Allen Steelman seeks to appeal an amended criminal judgment. In a criminal case, the defendant must file his notice of appeal within ten days of the entry of judgment. Fed. R. App. P. 4(b)(1)(A). With or without a motion, the district court may extend the appeal period for an additional thirty days upon a showing of good cause or excusable neglect. Fed. R. App. P. 4(b)(4); United States v. Reyes, 759 F.2d 351, 353 (4th Cir. 1985). The appeal period is "mandatory and jurisdictional." Browder v. Director, Dep't of Corr., 434 U.S. 257, 264 (1978) (quoting United States v. Robinson, 361 U.S. 220, 229 (1960)).

The amended judgment in this case was entered on June 17, 2003. Steelman's notice of appeal is deemed filed on July 17, 2003--outside the initial ten-day appeal period. Steelman filed a timely Rule 4(b)(4) motion, which the district court denied based on a determination that Steelman failed to demonstrate good cause or excusable neglect for his late notice of appeal. We conclude that the district court did not abuse its discretion in denying the motion.

Because Steelman failed to file a timely notice of appeal and failed to receive leave to file a belated appeal, we dismiss the appeal. We deny the motion for appointment of counsel and 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