

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 04-1738

WINFRED F. NICHOLSON,

Plaintiff - Appellant,

versus

UNITED STATES OF AMERICA, et al.,

Defendant - Appellee.

Appeal from the United States District Court for the District of Maryland, at Baltimore. William M. Nickerson, Senior District Judge. (CA-02-3214-1)

Submitted: August 4, 2004

Decided: August 23, 2004

Before NIEMEYER, TRAXLER, and DUNCAN, Circuit Judges.

Remanded by unpublished per curiam opinion.

Winfred F. Nicholson, Appellant Pro Se. David I. Pincus, Samuel Ashby Lambert, Jonathan D. Carroll, UNITED STATES DEPARTMENT OF JUSTICE, Washington, D.C.; Thomas Michael DiBiagio, United States Attorney, Baltimore, Maryland, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Winfred F. Nicholson seeks to appeal from the district court's order dismissing his complaint challenging the government's filing of tax liens. The district court dismissed Nicholson's complaint in an order entered on March 31, 2004. Nicholson's notice of appeal, dated April 29, 2004, was received in the district court on June 3, 2004. Nicholson asserted that he mailed his notice of appeal on April 29, 2004, and, upon discovering that it had not been filed, sent a copy of the notice of appeal on June 3, 2004. Nicholson's notice of appeal was made within the period of time applicable for a determination of excusable neglect or good cause under Rule 4(a)(5) of the Federal Rules of Appellate Procedure and expressed his desire to preserve his appeal. See Myers v. Stephenson, 781 F.2d 1036, 1038-39 (4th Cir. 1986). Accordingly, we remand this case to the district court for the limited purpose of permitting that court to determine whether Nicholson has shown excusable neglect or good cause warranting an extension of time for filing a notice of appeal. The record, as supplemented, then will be returned to this court for further consideration.

REMANDED