

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-6801

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

DOMAINE MARTIN,

Defendant - Appellant.

Appeal from the United States District Court for the Middle District of North Carolina, at Winston-Salem. Frank W. Bullock, Jr., Senior District Judge. (6:93-cr-00122-FWB-1)

Submitted: August 31, 2006

Decided: September 8, 2006

Before MICHAEL, MOTZ, and GREGORY, Circuit Judges.

Remanded by unpublished per curiam opinion.

Domaine Martin, Appellant Pro Se. John Warren Stone, Jr., Assistant United States Attorney, Greensboro, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Domaine Martin appeals the district court's order denying his motion for reduction of sentence under 18 U.S.C. § 3585(b) (2000). In criminal cases, a defendant must file his notice of appeal within ten days of the entry of judgment. Fed. R. App. P. 4(b)(1)(A). The district court, with or without a motion, may grant an extension of time to file a notice of appeal 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 judgment on March 29, 2006; the ten-day appeal period expired on April 12, 2006. Martin filed a notice of appeal after the ten-day appeal period expired but within the thirty-day excusable neglect period. Because the notice of appeal was filed within the excusable neglect period, we remand the case to the district court for the court to determine whether Martin has shown excusable neglect or good cause warranting an extension of the ten-day appeal period. The record, as supplemented, will then be returned to this court for further consideration. We deny Martin's motion for a certificate of appealability as unnecessary.

REMANDED