

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-4829

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

GRAHAM PAGE SIPE,

Defendant - Appellant.

Appeal from the United States District Court for the Middle District of North Carolina, at Durham. James A. Beaty, Jr., Chief District Judge. (1:06-cr-00133-JAB-2)

Submitted: June 18, 2009

Decided: June 22, 2009

Before NIEMEYER, GREGORY, and DUNCAN, Circuit Judges.

Remanded by unpublished per curiam opinion.

James Darren Byers, LAW OFFICE OF J. DARREN BYERS, PA, Winston-Salem, North Carolina, for Appellant. Paul Alexander Weinman, OFFICE OF THE UNITED STATES ATTORNEY, Winston-Salem, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Graham Page Sipe seeks to appeal his conviction and sentence. In criminal cases, the defendant must file the notice of appeal within ten days after the entry of judgment. Fed. R. App. P. 4(b)(1)(A). With or without a motion, upon a showing of excusable neglect or good cause, the district court may grant an extension of up to thirty days to file a notice of appeal. 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 June 11, 2008. Sipe filed the notice of appeal on July 11, 2008, after the ten-day period expired but within the thirty-day excusable neglect period. The Government has moved to remand the case to the district court for an excusable neglect determination. Because the notice of appeal was filed within the excusable neglect period, we grant the motion and remand the case to the district court for the court to determine whether Sipe 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.

REMANDED