

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-8177

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DANNY BECKHAM,

Defendant - Appellant.

Appeal from the United States District Court for the Western
District of North Carolina, at Charlotte. Robert J.
Conrad, Jr., Chief District Judge. (3:06-cr-00087-RJC-DCK-2)

Submitted: February 23, 2009

Decided: March 23, 2009

Before MICHAEL, TRAXLER, and KING, Circuit Judges.

Remanded by unpublished per curiam opinion.

Danny Beckham, Appellant Pro Se. Keith Michael Cave, OFFICE OF
THE UNITED STATES ATTORNEY, Charlotte, North Carolina, for
Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Danny Beckham seeks to appeal the district court's order denying relief on his 18 U.S.C. § 3582(c)(2) (2006) motion for reduction of sentence. In a criminal case, the defendant must file the notice of appeal within ten days after 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) (holding that § 3582 proceeding is criminal in nature and ten-day period applies). 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 its order denying the motion on August 27, 2008. Beckham filed the notice of appeal on September 22, 2008, after the ten-day period expired but within the thirty-day excusable neglect period. Because the notice of appeal was filed within the excusable neglect period, we remand to permit the district court to determine whether Beckham 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