

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 10-6153

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

THOMAS EDWARD CARTER,

Defendant - Appellant.

Appeal from the United States District Court for the District of Maryland, at Baltimore. Andre M. Davis, District Judge. (1:00-cr-00100-AMD-3)

Submitted: March 30, 2010

Decided: April 6, 2010

Before WILKINSON, GREGORY, and SHEDD, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Thomas Edward Carter, Appellant Pro Se. Rod J. Rosenstein, United States Attorney, Michael Joseph Leotta, Assistant United States Attorney, Baltimore, Maryland, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Thomas Edward Carter seeks to appeal the district court's order denying his motion for reduction of sentence under 18 U.S.C. § 3582 (2006). The United States has moved to dismiss the appeal as untimely. 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); see United States v. Alvarez, 210 F.3d 309, 310 (5th Cir. 2000) (holding that § 3582 proceeding is criminal in nature and ten-day appeal 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 for reduction of sentence on February 5, 2009. The notice of appeal was filed on January 21, 2010. Because Carter failed to file a timely notice of appeal or to obtain an extension of the appeal period, we grant the motion to dismiss the appeal as untimely. We 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