

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 10-6236

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ROBERT EDWARD TILLERY,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. Terrence W. Boyle, District Judge. (5:01-cr-00253-BO-1)

Submitted: November 29, 2010

Decided: March 18, 2011

Before WILKINSON, NIEMEYER, and AGEE, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Robert Edward Tillery, Appellant Pro Se. Rudolf A. Renfer, Jr., Assistant United States Attorney, Kristin L. Fritz, OFFICE OF THE UNITED STATES ATTORNEY, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Robert Edward Tillery seeks to appeal the district court's order denying his motion for reduction of sentence under 18 U.S.C. § 3582 (2006). 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 Rule 4(b)(1)(A) 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 November 1, 2009. The notice of appeal was filed on February 4, 2010. Because Tillery failed to file a timely notice of appeal or to obtain an extension of the appeal period, we dismiss the appeal. We dispense with oral argument because the facts and legal

* Because Tillery appeals from an order entered before December 1, 2009, the appeal period was ten days. For criminal orders entered after that date, the appeal period is fourteen days.

contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED