

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 13-7644**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

KALU KALU,

Defendant - Appellant.

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Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. James C. Dever III, Chief District Judge. (5:09-cr-00061-D-1)

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Submitted: October 23, 2014

Decided: January 16, 2015

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Before WYNN and DIAZ, Circuit Judges, and DAVIS, Senior Circuit Judge.

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Affirmed in part; dismissed in part by unpublished per curiam opinion.

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Kalu Kalu, Appellant Pro Se. G. Norman Acker, III, Assistant United States Attorney, Shailika K. Shah, OFFICE OF THE UNITED STATES ATTORNEY, Raleigh, North Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Kalu Kalu seeks to appeal the order in garnishment entered to enforce the restitution order imposed as part of Kalu's criminal judgment. In criminal cases, a defendant must file his notice of appeal within fourteen days after the entry of judgment. Fed. R. App. P. 4(b)(1)(A)(i). 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 the order in garnishment on the docket on April 4, 2012. Kalu filed the notice of appeal on October 28, 2013.<sup>1</sup> Because Kalu failed to file a timely notice of appeal or obtain an extension of the appeal period, we dismiss the appeal of the order in garnishment.<sup>2</sup>

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<sup>1</sup> We construe Kalu's informal brief as a notice of appeal. See Smith v. Barry, 502 U.S. 244, 248-49 (1992) (holding that appellate brief may serve as notice of appeal under certain circumstances). Furthermore, we conclude that Kalu could not have delivered the informal brief to prison officials for mailing to the court before he signed it on October 28, 2013. See Fed. R. App. P. 4(c); Houston v. Lack, 487 U.S. 266, 276 (1988).

<sup>2</sup> Although the timely filing of a notice of appeal in a criminal case is not a jurisdictional requirement, United States v. Urutyan, 564 F.3d 679, 685 (4th Cir. 2009), Kalu's appeal is inordinately late. Accordingly, we exercise our inherent power to dismiss it. United States v. Mitchell, 518 F.3d 740, 750 (10th Cir. 2008).

Kalu also seeks to appeal the district court's order denying his motion for reconsideration. Finding no reversible error, we affirm the district court's order denying Kalu's motion for reconsideration. United States v. Kalu, No. 5:09-cr-00061-D-1 (E.D.N.C. Sept. 27, 2013).

We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED IN PART;  
DISMISSED IN PART