

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 14-4172

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

TAVON MCPHAUL, a/k/a Block,

Defendant - Appellant.

Appeal from the United States District Court for the District of Maryland, at Baltimore. Marvin J. Garbis, Senior District Judge. (1:12-cr-00616-MJG-3)

Submitted: November 7, 2014

Decided: November 20, 2014

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

Remanded by unpublished per curiam opinion.

Beth M. Farber, HARRIS O'BRIEN, New York, New York, for Appellant. Rod J. Rosenstein, United States Attorney, Benjamin M. Block, OFFICE OF THE UNITED STATES ATTORNEY, Baltimore, Maryland, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Tavon McPhaul seeks to appeal his conviction and sentence. The Government has moved to dismiss the appeal as untimely. In criminal cases, the defendant must file the notice of appeal within fourteen 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 January 13, 2014. McPhaul filed the notice of appeal on February 26, 2014, after the fourteen-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 the case to the district court for the court to determine whether McPhaul has shown excusable neglect or good cause warranting an extension of the fourteen-day appeal period. The record, as supplemented, will then be returned to this court for further consideration. We defer action on the Government's motion to dismiss the appeal.

REMANDED