

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 97-6318**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

ROBERT LEE BURRIS,

Defendant - Appellant.

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Appeal from the United States District Court for the Western District of North Carolina, at Charlotte. Robert D. Potter, Senior District Judge. (CR-93-240-P)

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Submitted: May 1, 1997

Decided: May 13, 1997

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Before WIDENER and MURNAGHAN, Circuit Judges, and PHILLIPS, Senior Circuit Judge.

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Dismissed by unpublished per curiam opinion.

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Robert Lee Burris, Appellant Pro Se. Gretchen C. F. Shappert, Assistant United States Attorney, Charlotte, North Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Robert Lee Burris filed an untimely notice of appeal from the district court's denial of his motion for reduction of sentence. We dismiss for lack of jurisdiction. The time periods for filing notices of appeal are governed by Fed. R. App. P. 4. These periods are "mandatory and jurisdictional." Browder v. Director, Dep't of Corrections, 434 U.S. 257, 264 (1978) (quoting United States v. Robinson, 361 U.S. 220, 229 (1960)). Criminal defendants have ten days within which to file in the district court notices of appeal from judgments or final orders. Fed. R. App. P. 4(b). The only exception to the appeal period is when the district court extends the time to appeal under Fed. R. App. P. 4(b) upon a showing of excusable neglect.

The district court entered its order on April 13, 1994; Appellant's notice of appeal was filed on March 3, 1997. Appellant's failure to obtain an extension within the prescribed time frame leaves this court without jurisdiction to consider the merits of Appellant's appeal. 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