

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 98-7363**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

TORRANCE JONES, a/k/a Tube,

Defendant - Appellant.

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Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. Terrence W. Boyle, Chief District Judge. (CR-96-79-B0)

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Submitted: February 23, 1999

Decided: May 21, 1999

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Before WIDENER, NIEMEYER, and LUTTIG, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Torrance Jones, Appellant Pro Se. Christine Blaise Hamilton, OFFICE OF THE UNITED STATES ATTORNEY, Raleigh, North Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Torrance Jones filed an untimely notice of appeal from the district court's denial of his post-judgment motion to correct an alleged error in the transcript of his criminal trial. A defendant in a criminal action is accorded ten days from entry of the judgment or order being appealed within which to file a notice of appeal in the district court. See Fed. R. App. P. 4(b)(1)(A); cf. United States v. Kress, 944 F.2d 155, 161 (3d Cir. 1991) (applying ten-day appeal period to district court's order denying Fed. R. Crim. P. 35 motion). The district court may extend this appeal period only upon a finding of excusable neglect or good cause. An extension of time may not exceed thirty days from the expiration of the time otherwise prescribed. See Fed. R. App. P. 4(b)(4).

The district court entered its order on June 4, 1998;\* Jones' notice of appeal was given to prison officials for mailing, and thus deemed filed, on September 9, 1998. Jones failed to file a timely notice of appeal or obtain an extension. We therefore dismiss the appeal. We dispense with oral argument because the facts

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\* Although the district court's order is marked as "filed" on May 28, 1998, the district court's records show that it was entered on the docket sheet on June 4, 1998. Pursuant to Rule 4(b)(1) of the Federal Rules of Appellate Procedure, it is the date that the order was entered on the docket sheet that we take as the effective date of the district court's decision.

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

DISMISSED