

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 21-4341

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JAQUAN DAY,

Defendant - Appellant.

Appeal from the United States District Court for the District of Maryland, at Baltimore.
Richard D. Bennett, Senior District Judge. (1:19-cr-00506-RDB-7)

Submitted: March 3, 2022

Decided: May 24, 2022

Before WYNN, RICHARDSON, and QUATTLEBAUM, Circuit Judges.

Dismissed by unpublished per curiam opinion.

ON BRIEF: Steven M. Klepper, KRAMON & GRAHAM, P.A., Baltimore, Maryland,
for Appellant. Ereik L. Barron, United States Attorney, Charles D. Austin, Assistant United
States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Baltimore, Maryland,
for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Jaquan Day seeks to appeal his sentence imposed following his guilty plea to Hobbs Act robbery, in violation of 18 U.S.C. §§ 2, 1951(a). The Government asserts that the appeal is untimely and should be dismissed.

In criminal cases, the defendant must file the notice of appeal within 14 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 30 days to file a notice of appeal. Fed. R. App. P. 4(b)(4); *United States v. May*, 855 F.3d 271, 275 n.3 (4th Cir. 2017). Although the appeal period in a criminal case is not a jurisdictional provision but, rather, a claim-processing rule, *United States v. Urutyanyan*, 564 F.3d 679, 685 (4th Cir. 2009), this court “must dismiss” the appeal “[w]hen the Government promptly invokes the rule in response to a late-filed criminal appeal,” *United States v. Oliver*, 878 F.3d 120, 123 (4th Cir. 2017); see *United States v. Chaney*, 911 F.3d 222, 224-25 (4th Cir. 2018).

The district court entered judgment on May 28, 2021. Day filed the notice of appeal on July 5, 2021. Because Day failed to file a timely notice of appeal or to obtain an extension of the appeal period and the Government has promptly sought enforcement of the time limitation in Fed. R. App. P. 4(b), we dismiss the appeal. 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.

DISMISSED