

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

September 4, 2026

Christopher M. Wolpert
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

RAYMOND LEE NORCUTT, JR.,

Defendant - Appellant.

No. 25-8056
(D.C. No. 2:19-CR-00011-SWS-1)
(D. Wyo.)

ORDER AND JUDGMENT*

Before **HOLMES**, Chief Judge, **MORITZ** and **FEDERICO**, Circuit Judges.

Raymond Lee Norcutt, Jr., a federal inmate proceeding pro se,¹ appeals from the district court's denial of his motion for an extension of time to appeal from the denial of his 18 U.S.C. § 3582(c)(1)(A) motion for compassionate release. Exercising jurisdiction under 28 U.S.C. § 1291, we affirm the denial of an extension to appeal. Accordingly, we do not review the denial of the § 3582(c)(1)(A) motion.

* After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist in the determination of this appeal. *See* Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument. This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

¹ We construe Mr. Norcutt's pro se filings liberally, but we do not act as his counsel. *See Yang v. Archuleta*, 525 F.3d 925, 927 n.1 (10th Cir. 2008).

BACKGROUND

In 2019, Mr. Norcutt was sentenced to two consecutive 60-month terms of imprisonment. In 2025, he filed a § 3582(c)(1)(A) motion, which the government opposed. The district court denied the motion on July 23, 2025.

Mr. Norcutt had until August 6 to file a notice of appeal. *See* Fed. R. App. P. 4(b)(1)(A) (establishing 14-day appeal period in criminal cases); *United States v. Espinosa-Talamantes*, 319 F.3d 1245, 1246 (10th Cir. 2003) (applying Rule 4(b)(1) in § 3582 proceeding). But he did not deposit a notice of appeal in the prison’s legal mail system until August 14, when he also moved for an extension of time to file the notice of appeal.

The district court could grant an extension only by finding excusable neglect or good cause. *See* Fed. R. App. P. 4(b)(4). It was Mr. Norcutt’s burden to establish excusable neglect or good cause. *United States v. Lucas*, 597 F.2d 243, 245 (10th Cir. 1979). Mr. Norcutt sought to satisfy his burden by asserting that he had a severely shortened time period to prepare and file a notice of appeal.

The motion for an extension stated Mr. Norcutt received the district court’s July 23 order on Friday, August 1, and the institution’s law library was closed on August 3, “making August 4 the earliest [he] could research any legal matters to file his Notice of Appeal and Motion for Extension.” R., vol. I at 252. It asserted, “[a]s [he] is a layman in the law, it requires him more time to find particularized legal information than a trained and licensed attorney.” *Id.*

The government opposed the motion. It asserted that having received the court's order on August 1, Mr. Norcutt had five days to deposit a notice of appeal in the prison's legal mail system. It argued that five days was sufficient to prepare "a one-page notice of appeal, even if the legal resources were unavailable for one of those days." *Id.* at 260. In light of the five-day window, the government asserted Mr. Norcutt could not establish either excusable neglect or good cause.

The district court took up the matter the day after Mr. Norcutt's deadline to file a reply. Based on the assertions in the motion, it found Mr. Norcutt had three days to conduct research, prepare a notice of appeal, and deposit it into the prison's legal mail system. Because the district court did not conclude that the circumstances were wholly outside his control, it held that excusable neglect rather than good cause was the applicable standard. *See United States v. Torres*, 372 F.3d 1159, 1161 n.1 (10th Cir. 2004) ("Good cause comes into play in situations in which there is not fault—excusable or otherwise. In such situations, the need for an extension is usually occasioned by something that is not within the control of the movant." (internal quotation marks omitted)). The court thus evaluated relevant factors for excusable neglect: (1) the danger of prejudice to the government, (2) the length of delay and impact on the proceedings, (3) the reason for the delay, and (4) whether Mr. Norcutt acted in good faith. *See id.* at 1162.

The court weighed the first, second, and fourth factors in Mr. Norcutt's favor. But after recognizing this court has characterized the third factor as "perhaps the

most important single factor,” *id.* at 1163 (internal quotation marks omitted), the district court determined the reason for the delay was not excusable:

His proposed notice of appeal is a single substantive sentence with a certificate of service. According to him, he had three days to research and prepare this notice of appeal and deposit it within the prison’s mail system in order for it to be timely using the prison mailbox rule. Significantly, he has not asserted that three days was not enough time for him to accomplish this, nor has he explained why three days should be considered an insufficient amount of time for such a task. For that matter, Mr. Norcutt does not even allege that he in fact worked on the matter during those three days. Mr. Norcutt’s assertions demonstrate he had reasonable control over the timely preparation of his notice of appeal, but he failed to do it.

R., vol. I at 265 (citation omitted). It therefore denied the motion for an extension.

Twelve days after ruling, the district court received Mr. Norcutt’s reply.

Giving more details about Mr. Norcutt’s time constraints, the reply stated that he did not receive the court’s order until late on August 1, but the law library was not open the evening of August 1; the law library was closed on August 2 and 3; and due to his work schedule, he was not able to visit the law library until the evening of August 4. Given his lack of legal knowledge, he asserted, “[i]n tandem with [his] work schedule, it was going to take him more than the one day he had remaining to confirm research and write, print, and copy his Notice of Appeal in order to be in legal mail that next morning.” *Id.* at 268. The district court did not revisit its decision after receiving the reply. The next entry on the docket is Mr. Norcutt’s timely notice of appeal from the denial of an extension.

DISCUSSION

“A district court’s order refusing to extend the time for filing a notice of appeal is itself an appealable final judgment.” *Bishop v. Corsentino*, 371 F.3d 1203, 1206 (10th Cir. 2004). We review for abuse of discretion, meaning we will not disturb the decision unless we have “a definite and firm conviction that the lower court made a clear error of judgment or exceeded the bounds of permissible choice in the circumstances.” *Id.* (internal quotation marks omitted).

Mr. Norcutt argues the district court erred in denying an extension because he established circumstances that were outside his control. He asserts both the government and the district court improperly disregarded his assertion that it took ten days for the court’s order to reach him. Emphasizing that the prison limits legal research and preparation of documents to the law library, which was unavailable to him from August 1 through 3, he argues that the government and the district court perceived him as having more time (five days and three days, respectively) than the one-day period he actually had to file the notice of appeal.

The district court explicitly recognized that Mr. Norcutt did not receive its order denying his § 3582(c)(1)(A) motion until August 1. Accordingly, contrary to Mr. Norcutt’s assertion, it did not ignore his allegation that it took ten days for the order to reach him. The district court did not abuse its discretion in concluding Mr. Norcutt had three days to research and prepare his notice of appeal, given the motion stated his first opportunity to access the law library was August 4. And in light of the minimal requirements for filing a notice of appeal, *see* Fed. R. App.

P. 3(c), the district court also did not abuse its discretion in concluding that three days gave Mr. Norcutt enough time to meet the deadline.

Mr. Norcutt asserts he had only one working day available, as he informed the district court. This argument, however, rests on the information related in his reply, which was not before the district court when it ruled. In this regard, Mr. Norcutt argues the court should have waited for his reply before deciding the motion. But the district court did not abuse its discretion in promptly deciding the matter. The more detailed information set forth in the reply was available to Mr. Norcutt when he filed his motion for an extension, but he did not include it. The district court was entitled to proceed under the presumption that a reply would not present material new information; the local criminal rules do not provide for a reply, *see* L.Cr.R. 47.1(a), and under the civil rules, a litigant's reply cannot "address issues not previously raised in the motion or response," U.S.D.C.L.R. 7.1(b)(1)(D).² Moreover, the reply was late (due August 26, but not mailed until September 2), and Mr. Norcutt did not move for leave to file an untimely reply. We recognize that Mr. Norcutt is an incarcerated, pro se party who is subject to mail delays. But "*pro se* status does not excuse the obligation of any litigant to comply with the fundamental requirements of the Federal Rules of Civil and Appellate Procedure." *Ogden v. San Juan Cnty.*, 32 F.3d 452, 455 (10th Cir. 1994).

² The local rules provide that "[w]hen appropriate in a criminal context, the Local Rules of Civil Procedure may also apply to criminal cases." L.Cr.R. 1.2.

In sum, the district court's decision was within the bounds of permissible choice. We cannot conclude that it abused its discretion in determining Mr. Norcutt failed to meet his burden to show good cause or excusable neglect to satisfy Rule 4(b)(4). We therefore do not review his arguments regarding the denial of the § 3582(c)(1)(A) motion. *See United States v. Lantis*, 17 F.4th 35, 38 n.3 (10th Cir. 2021) (recognizing that Rule 4(b)(1) is an inflexible claim-processing rule that we must enforce when the government properly invokes it).

CONCLUSION

We affirm the district court's judgment. We deny the government's motion to dismiss the appeal (Dkt. No. 7). We deny Mr. Norcutt's motion to supplement the record (Dkt. No. 31) and the second request for the appointment of appellate counsel contained within his reply to the government's response to the motion to supplement (Dkt. No. 35), except that we grant his requests in Dkt. Nos. 31 and 35 to seal the attachments to those filings.

Entered for the Court

Jerome A. Holmes
Chief Judge