

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RECEIVED

UNITED STATES OF AMERICA)

Plaintiff,)

v.)

FARID FATA)

Defendant.)

OCT 23 2020

PAUL D. BORMAN

U.S. DISTRICT JUDGE

No. 2:13-cr-20600

Hon. Paul BORMAN.

MOTION THAT FATA'S NOTICE OF APPEAL
WAS TIMELY

Defendant Farid Fata ("Fata") moves
to respond to the SIXTH CIRCUIT ORDER,
Dated October 8, 2020 as the Court noted
that Fata's notice of appeal was filed after the
14-day appeal period but within the next 30 days,
the Court remanded the Case to the district
Court for the limited purpose of allowing the

Court to determine whether Fata can show excusable neglect or good cause warranting an extension of the appeal period.

Fata is attaching his Reply to the United States Motion To Dismiss Appeal as Untimely (see DE; the Sixth Circuit order did not refer to the evidence that Fata has filed in the Sixth Circuit, that showed that on July 16, 2020, Fata sent a "Notice of Appeal" to the U.S. Court of Appeals for the Sixth Circuit via Certified Mail (Appendix A). As shown in Appendix A, the U.S. Postal Service date-stamp of July 16, 2020 shows the Zip code 29590 where FCI Williamsburg, South Carolina is located and where Fata is housed.

It took 11 days for the U.S. Postal Service to deliver Fata's certified mail to the Court of Appeals, delivered on July 27, 2020 (see Appendix B). Fata obtained both Appendices from the mail room at FCI Williamsburg.

Fed. R. App. P. 4(c)(1) states that when a party is incarcerated, as is Fata, a filing is considered timely "if it is deposited in the institution's internal mail system on or before the last day for filing". A prisoner can establish timely filing of a notice of Appeal under the prison mailbox rule by providing a post mark or date-stamp, showing timely delivery and prepayment of postage. *Id.*; see *United States v. Smotherman*, 838 F.3d 736, 738 (6th Cir. 2016).

Fata has shown his timely intent and desire
to appeal.

therefore, this Honorable Court should find that
Fata made timely effort to file a notice of
Appeal first With the Sixth Circuit & second
with the District Court.

Even if this court does not take into consideration
the enclosed evidence mailed timely to the Sixth
Circuit on July 16, 2020, it should treat the
notice of appeal sent, after the 14-day period but before
the thirty-day window, to the district court as request
for an extension.

Respectfully Submitted,
~~Farid Fata~~ OCTOBER 14, 2020
Farid Fata, Prose
48860-039
P.O. Box 340, Salters, SC 29590

TRULINCS 48860039 - FATA, FARID - Unit: WIL-A-B

FROM: 48860039
TO:
SUBJECT: DEFENDANT REPLY to Government's Motion
DATE: 09/18/2020 07:36:24 AM

CASE No.: 20-1762

IN THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff, Appellantst,

v.

FARID FATA,

Defendant-Appellant^{ee}

DEFENDANT-APPELLANT REPLY TO THE GOVERNMENT'S MOTION TO DISMISS APPEAL AS UNTIMELY

Farid Fata
48860-039
FCI Williamsburg
P.O. Box 340
Salters, SC 29590

REPLY TO UNITED STATES MOTION TO DISMISS APPEAL AS UNTIMELY

Defendant Farid Fata ("Fata") submits this Reply to the United States Motion to Dismiss Fata's Appeal for Reduction of Sentence Pursuant to 18 U.S.C. 3582(c)(1)(A) as untimely. In support thereof, Fata offers the following:

When a party is incarcerated, as is Fata, a filing is considered timely "if it is deposited in the institution's internal mail system on or before the last day for filing". Fed.R.App.P.4(c)(1). A prisoner can establish timely filing of a notice of Appeal under the prison mailbox rule by providing a post mark or date-stamp, showing timely delivery and prepayment of postage. *Id.*; see *United States v. Smotherman*, 838 F.3d 736, 738 (6th Cir. 2016).

On July 10, 2020, the District Court entered an order denying Fata's motion for reduction of sentence filed under 18 U.S.C. 3582(c)(1)(A). Any notice of appeal was due to be mailed by July 24, 2020.

As Fata's Notice of Appeal mailed to the Sixth Circuit on July 16, 2020 does not appear on the docket, the Government falsely accuses Fata of lying and refers to untrue allegations of forging evidence in his 2255 proceedings, currently under appeal. The evidence presented below rebuts and defeats the Government's Rhetoric.

TRULINCS 48860039 - FATA, FARID - Unit: WIL-A-B

On July 16, 2020, Fata sent a "Notice of Appeal" to the U.S. Court of Appeals for the Sixth Circuit via certified mail (Appendix A). As shown in Appendix A, the U.S. Postal Service date-stamp of July 16, 2020 shows the USPS Zip Code 29590 where FCI Williamsburg, South Carolina is located and where Fata is housed.


It took 11 days for the U.S. Postal service to deliver Fata's certified mail to the Court of Appeals, delivered on July 27, 2020 (see Appendix B). Fata obtained both appendices A and B as evidence from the mail room at FCI Williamsburg.

On July 28, 2020, the Sixth Circuit mailed Fata a financial affidavit (see Appendix C) which was docketed on 8-12-2020 (sealed), and later entered on 8-21-2020 at 09:25 AM (Appendix C).

CONCLUSION:

This Honorable Court should find that Fata did file a notice of appeal that was timely.

Respectfully submitted,

Farid Fata  9-18-2020
#48860-039
FCI Williamsburg
P.O. Box 340
Salters, SC 29590

I declare under penalty of perjury that the date of signature is correct. The original copy of the Reply to the Government's motion to Dismiss Appeal is sent to the United States Court Of Appeals for the Sixth Circuit via certified mail.

Appendix "A"

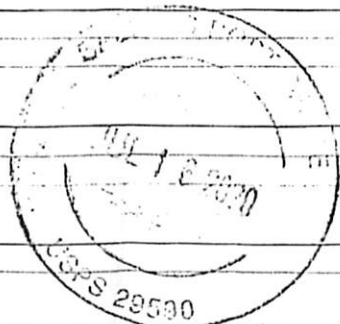
Name and Address of Sender

Check type of mail or service:

- Certified
- COD
- Delivery Confirmation
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- Insured
- Recorded Delivery (International)
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Postmark and Date of Receipt

Article Number	Addressee (Name, Street, City, State, & ZIP Code)	Postage	Fee	Handling Charge	Actual Value if Registered	Insured Value	Due Sender if COD	DC Fee	SC Fee	SH Fee	RD Fee	RR Fee
1. Fata 48860-039 7016 1970 0000 7316 2633	clech 100 E. 5th St Cincinnati, OH 45202	4.55										
2. [REDACTED]	[REDACTED]											
3.												
4.												
5.												
6.												
7.												
8.												
Total Number of Pieces Listed by Sender 2	Total Number of Pieces Received at Post Office 2	Postmaster, Per (Name of receiving employee) Small		See Privacy Act Statement on Reverse								



Appendix " B "

USPS Tracking®

[FAQs >](#)

Track Another Package +

Tracking Number: 70161970000073162633

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Your item was delivered to the front desk, reception area, or mail room at 12:56 pm on July 27, 2020 in CINCINNATI, OH 45202.

 **Delivered**

July 27, 2020 at 12:56 pm
Delivered, Front Desk/Reception/Mail Room
CINCINNATI, OH 45202

Feedback

Get Updates ▾

Text & Email Updates



Tracking History



Product Information



See Less ^

Name: FARID FATA
Register Number: 48860-039
F.C.I. Williamsburg
Inmate Mail
P. O. Box 340
Salters, SC 29590

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Honorable Paul Borma
Theodore Levin BLDG
231 W. Lafayette B
Detroit, MI 4822



LEGAL MAIL (Certified Mail)