

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-8099

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DEMOND ANDRE JACKSON, a/k/a D.J.,

Defendant - Appellant.

Appeal from the United States District Court for the Southern District of West Virginia, at Huntington. Robert C. Chambers, District Judge. (3:99-cr-00015-5)

Submitted: April 16, 2009

Decided: April 23, 2009

Before WILKINSON, NIEMEYER, and SHEDD, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Jeffrey M. Brandt, ROBINSON & BRANDT, P.S.C., Covington, Kentucky, for Appellant. Charles T. Miller, United States Attorney, Blaire L. Malkin, Assistant United States Attorney, Charleston, West Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Demond Jackson appeals from the district court's order granting in part his 18 U.S.C. § 3582(c) (2006) motion for reduction of sentence based upon the crack cocaine amendments to the Sentencing Guidelines. The district court reduced Jackson's sentence to the low end of his amended Guidelines range; Jackson asserts that the district court erred by failing to apply the Guidelines as advisory and consider a lower sentence. However, because the district court lacked authority to reduce Jackson's sentence further, we affirm. See United States v. Dunphy, 551 F.3d 247, 257 (4th Cir. 2009) ("When a sentence is within the guidelines applicable at the time of the original sentencing, in an 18 U.S.C. § 3582(c) resentencing hearing, a district judge is not authorized to reduce a defendant's sentence below the amended guideline range."). 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.

AFFIRMED