

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 17-6324

UNITED STATES OF AMERICA,

Plaintiff – Appellee,

v.

MATTHEW ALEXANDER NICOLL,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Raymond A. Jackson, District Judge. (2:12-cr-00010-RAJ-FBS-1)

Submitted: July 31, 2017

Decided: August 4, 2017

Before NIEMEYER, AGEE, and THACKER, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Matthew Alexander Nicoll, Appellant Pro Se. Elizabeth Marie Yusi, OFFICE OF THE UNITED STATES ATTORNEY, Norfolk, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Matthew Alexander Nicoll appeals the district court's order denying his 18 U.S.C. § 3582(c)(2) (2012) motion for a sentence reduction pursuant to Amendment 801 to the Sentencing Guidelines. We have reviewed the record and find no abuse of discretion. *See United States v. Muldrow*, 844 F.3d 434, 437 (4th Cir. 2016). Under § 3582(c)(2), the district court may modify the term of imprisonment “of a defendant who has been sentenced . . . based on a sentencing range that has subsequently been lowered,” if the amendment is listed in the Guidelines as retroactively applicable. 18 U.S.C. § 3582(c)(2); *see U.S. Sentencing Guidelines Manual* § 1B1.10(a)(1), (d), p.s. (2016). Guideline § 1B1.10(d), p.s., lists the retroactively applicable amendments, and the list does not include Amendment 801. The district court therefore did not abuse its discretion in denying Nicoll the relief he sought under Amendment 801. *See United States v. Dunphy*, 551 F.3d 247, 249 n.2 (4th Cir. 2009).

Accordingly, we affirm the district court's order. 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.

AFFIRMED