

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-7010

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

EDGAR NELSON PITTS, a/k/a Marlon Smith,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of Virginia, at Lynchburg. James C. Turk, Senior District Judge. (6:94-cr-70068-jct-2)

Submitted: February 19, 2009

Decided: February 24, 2009

Before WILKINSON, DUNCAN, and AGEE, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Edgar Nelson Pitts, Appellant Pro Se. Thomas Jack Bondurant, Jr., Assistant United States Attorney, Roanoke, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Edgar Nelson Pitts appeals from the district court's order granting in part his 18 U.S.C. § 3582(c)(2) (2006) motion for reduction of sentence based on the crack cocaine amendments to the Sentencing Guidelines. The district court reduced Pitts' sentence to the minimum of the amended Guidelines range. Pitts asserts that the district court erred in failing to further reduce his sentence. However, the district court lacked jurisdiction to further reduce Pitts' sentence. See United States v. Dunphy, 551 F.3d 247 (4th Cir. 2009). Accordingly, we affirm the district court's order and deny Pitts' motion for appointment of counsel. 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