

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 08-7018**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

HERBERT SMART,

Defendant - Appellant.

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Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Raymond A. Jackson, District Judge. (2:97-cr-00025-RAJ-5)

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Submitted: August 8, 2008

Decided: August 27, 2008

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Before WILKINSON, MOTZ, and SHEDD, Circuit Judges.

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Affirmed by unpublished per curiam opinion.

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Herbert Smart, Appellant Pro Se. Laura Marie Everhart, Assistant United States Attorney, Norfolk, Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Herbert Smart appeals the district court's order denying his motion under 18 U.S.C. § 3582(c)(2) (2000), seeking a reduction to his sentence based on an amendment to the Sentencing Guidelines. We have reviewed the record and find no reversible error. Accordingly, we find the district court did not abuse its discretion in denying the motion. See United States v. Goines, 357 F.3d 469, 478 (4th Cir. 2004) (motion under § 3582(c) "is subject to the discretion of the district court"); United States v. Legree, 205 F.3d 724, 727 (4th Cir. 2000). 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