UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-7026

UNITED STATES OF AMERICA,

Plaintiff – Appellee,

v.

BRICELYN MARCEL RUSSELL,

Defendant – Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Rebecca Beach Smith, District Judge. (2:96-cr-00220-RBS-1)

Submitted: March 31, 2009 Decided: April 15, 2009

Before WILKINSON, GREGORY, and SHEDD, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Bricelyn Marcel Russell, Appellant Pro Se. Laura Marie Everhart, Assistant United States Attorney, Norfolk, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Bricelyn Marcel Russell seeks to appeal the district court's order denying his motion for reduction of sentence under 18 U.S.C. § 3582 (2006). Russell was originally sentenced at the bottom of his guideline range to 360 months in prison. The district court subsequently granted the Government's motions under Fed. R. Crim. P. 35(b) and reduced Russell's sentence to 180 months. In denying Russell's § 3582(c)(2) motion, the district court determined that his amended guideline range under the crack cocaine amendments was 292 to 365 months' imprisonment; noted the court had already reduced his sentence to 180 months; and denied his motion for a further reduction.

On appeal, Russell challenges the district court's reasoning for denying his motion. Because we conclude that the district court lacked authority under 18 U.S.C. § 3582(c)(2) to reduce Russell's term of imprisonment to a term that was less than the bottom of the amended guideline range, we affirm. See United States v. Dunphy, 551 F.3d 247, 250, 252 (4th Cir. 2009). 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