

**UNPUBLISHED**UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 08-7188**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ANTONIO ALFONZO ROGERS, a/k/a Monkey,

Defendant - Appellant.

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Appeal from the United States District Court for the Western District of North Carolina, at Charlotte. Frank D. Whitney, District Judge. (3:94-cr-00092-FDW-2)

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Submitted: April 2, 2009

Decided: April 15, 2009

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Before MOTZ and AGEE, Circuit Judges, and HAMILTON, Senior Circuit Judge.

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Affirmed by unpublished per curiam opinion.

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Claire J. Rauscher, Federal Public Defender, Charlotte, North Carolina; Matthew Segal, Assistant Federal Public Defender, Asheville, North Carolina, for Appellant. Amy Elizabeth Ray, Assistant United States Attorney, Asheville, North Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Antonio Alfonzo Rogers appeals the district court's order determining that he is ineligible for a sentence modification pursuant to 18 U.S.C. § 3582(c) (2006), or alternatively that the court would deny his motion as a matter of discretion based upon his post-sentencing conduct. Finding no reversible error, we affirm on the reasoning of the district court. United States v. Rogers, No. 3:94-cr-00092-FDW-2 (W.D.N.C. June 5, 2008). We deny Rogers' 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