

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 09-4627

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MARCUS GOSSETT,

Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at Spartanburg. G. Ross Anderson, Jr., Senior District Judge. (7:02-cr-00248-GRA-23)

Submitted: December 16, 2009

Decided: February 2, 2010

Before MICHAEL, SHEDD, and DUNCAN, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Benjamin T. Stepp, Assistant Federal Public Defender, Greenville, South Carolina, for Appellant. W. Walter Wilkins, United States Attorney, E. Jean Howard, Assistant United States Attorney, Greenville, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Marcus Gossett appeals the district court's order revoking his supervised release and sentencing him to five months in prison, followed by a five-year term of supervised release. Gossett argues that the district court's orally pronounced sentence conflicts with the written judgment.

Where a conflict exists between an orally pronounced sentence and the written judgment, the oral sentence controls. Fed. R. Crim. P. 35(c) ("'[S]entencing' means the oral announcement of the sentence."); United States v. Osborne, 345 F.3d 281, 283 n.1 (4th Cir. 2003). The record establishes that the district court imposed a five-month active prison term to be followed by a five-year term of supervised release, in its oral pronouncement of the sentence. This is precisely the sentence recited in the written judgment. Thus, there is simply no conflict between the sentence imposed in open court and the sentence reflected in the written judgment. Nor do we find the oral pronouncement of sentence ambiguous or unclear. Accordingly, we affirm. 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