

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 09-6741

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

STEVEN GREGORY RICHARDSON,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of North Carolina, at Wilmington. James C. Fox, Senior District Judge. (5:05-cr-00298-F-1)

Submitted: September 4, 2009

Decided: October 1, 2009

Before NIEMEYER, GREGORY, and SHEDD, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Steven Gregory Richardson, Appellant Pro Se. Anne Margaret Hayes, Jennifer P. May-Parker, Assistant United States Attorneys, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Steven Gregory Richardson appeals the district court's order denying his 18 U.S.C. § 3582(c)(2) motion for reduction of sentence. The Government has moved to dismiss the appeal on the ground that Richardson's notice of appeal was untimely filed. Although the document Richardson captioned as a "motion of Appeal" was untimely, he earlier filed a "request for certificate of appealability" within the ten-day appeal period. Because we construe Richardson's "request" to be a timely notice of appeal, see Fed. R. App. P. 3, we deny the Government's motion to dismiss. Nevertheless, we have reviewed the record and find no reversible error. Accordingly, we affirm for the reasons stated by the district court. United States v. Richardson, No. 5:05-cr-00298-F-1 (E.D.N.C. Jan. 26, 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