

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 10-6262

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

LOUIS SAMUELS,

Defendant - Appellant.

Appeal from the United States District Court for the Western
District of North Carolina, at Charlotte. Graham C. Mullen,
Senior District Judge. (3:91-cr-00033-GCM-1)

Submitted: April 29, 2010

Decided: May 4, 2010

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

Affirmed by unpublished per curiam opinion.

Louis Samuels, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Louis Samuels appeals the district court's text order denying as frivolous his petition for a writ of audita querela. In his petition to the district court, Samuels argued that Amendment 709 of the Sentencing Guidelines requires that the district court re-sentence him without a career offender designation. Despite Samuels' contentions to the contrary, alternative remedies existed by which Samuels should have raised the instant claim challenging his criminal conviction and sentence. See United States v. Torres, 282 F.3d 1241, 1245 (10th Cir. 2002) ("[A] writ of audita querela is not available to a petitioner when other remedies exist, such as a motion to vacate sentence under 28 U.S.C. § 2255." (internal quotation marks omitted)). Accordingly, the district court did not err in denying Samuels' motion. 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