

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 11-4469

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

LEONARD CHRISTOPHER BROWN,

Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at Charleston. David C. Norton, Chief District Judge. (2:08-cr-00424-DCN-1)

Submitted: November 28, 2011

Decided: December 23, 2011

Before WILKINSON, KING, and AGEE, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Jeremy A. Thompson, LAW OFFICE OF JEREMY A. THOMPSON, LLC, Columbia, South Carolina, for Appellant. William N. Nettles, United States Attorney, Sean Kittrell, Assistant United States Attorney, Charleston, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Leonard Christopher Brown entered a plea, pursuant to North Carolina v. Alford, 400 U.S. 25 (1970), to possession of a firearm and ammunition by a convicted felon, in violation of 18 U.S.C. §§ 922(g)(1), 924(a)(2), 924(e) (2006). He received a sentence of seventy-two months' imprisonment. Brown appeals his sentence, contending that the district court abused its discretion when it denied his request for a downward departure under U.S. Sentencing Guidelines Manual § 5K2.13 (2010) based on his diminished capacity. For the reasons explained below, we dismiss the appeal.

The district court has the discretion to depart downward if "(1) the defendant committed the offense while suffering from a significantly reduced mental capacity; and (2) the significantly reduced mental capacity contributed substantially to the commission of the offense." USSG § 5K2.13. However, "[w]e lack the authority to review a sentencing court's denial of a downward departure unless the court failed to understand its authority to do so." United States v. Brewer, 520 F.3d 367, 371 (4th Cir. 2008). Our review of the record discloses that the district court did not fail to recognize its authority to depart. Thus, Brown's claim is not reviewable on appeal.

We therefore dismiss the appeal. 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.

DISMISSED