

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 11-7440**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

KELVIN FREEMAN,

Defendant - Appellant.

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Appeal from the United States District Court for the Western  
District of Virginia, at Charlottesville. Norman K. Moon,  
Senior District Judge. (3:08-cr-00022-NKM-1)

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Submitted: April 24, 2012

Decided: May 7, 2012

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Before MOTZ, SHEDD, and WYNN, Circuit Judges.

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Affirmed by unpublished per curiam opinion.

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Kelvin Freeman, Appellant Pro Se. Sharon Burnham, Assistant  
United States Attorney, Roanoke, Virginia; Ronald Mitchell  
Huber, Assistant United States Attorney, Charlottesville,  
Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Kelvin Freeman appeals the district court's order denying his 18 U.S.C. § 3582(c)(2) (2006) motion for reduction of sentence based on Amendment 750 to the U.S. Sentencing Guidelines Manual (2011).<sup>\*</sup> We have reviewed the record and find no reversible error. Freeman correctly notes that the district court's consideration of his motion under Amendment 750 was premature as the amendment had not yet gone into effect at the time the court entered the order. However, because Amendment 750 is now in effect and the district court did not err in concluding that Freeman does not qualify for a sentence reduction under Amendment 750, this argument is moot. Accordingly, we affirm for the reasons stated by the district court. United States v. Freeman, No. 3:08-cr-00022-NKM-1 (W.D. Va. Oct. 17, 2011). We further deny Freeman's 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

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<sup>\*</sup> To the extent Freeman relied on Amendment 706 to the Guidelines in his § 3582(c)(2) motion, that amendment was already taken into consideration at his sentencing, which took place after the amendment's effective date of November 1, 2007.