

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 12-7169

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

KEVIN MAURICE LINDER, a/k/a Killer Kev,

Defendant - Appellant.

Appeal from the United States District Court for the Western
District of North Carolina, at Statesville. Richard L.
Voorhees, District Judge. (5:02-cr-00037-RLV-5)

Submitted: November 9, 2012

Decided: November 28, 2012

Before GREGORY, SHEDD, and KEENAN, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Kevin Maurice Linder, Appellant Pro Se. Amy Elizabeth Ray,
Assistant United States Attorney, Asheville, North Carolina;
Michael E. Savage, Assistant United States Attorney, Thomas A.
O'Malley, OFFICE OF THE UNITED STATES ATTORNEY, Charlotte, North
Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Kevin Maurice Linder appeals the district court's order granting his motion for reduction of sentence under 18 U.S.C. § 3582(c)(2) (2006). Although the district court granted Linder's motion, the court did not reduce his sentence to the full extent he requested. We have reviewed the record and find no reversible error. The district court reduced Linder's offense level to 34, which resulted in a revised Guidelines range of 262-327 months, after which the court imposed a sentence of 156 months, less than 60% of the low end of the revised Guidelines range. Linder thus received the benefit of Amendment 750 to the U.S. Sentencing Guidelines Manual, which implemented the Fair Sentencing Act. The court was not at liberty to depart below the statutory minimum sentence of ten years, which still applied in Linder's case because the Fair Sentencing Act does not apply to defendants like Linder who were sentenced before the Act's 2010 effective date. Moreover, Linder's ineffective assistance claim is meritless because there is no right to counsel in a § 3582(c)(2) proceeding. United States v. Legree, 205 F.3d 724, 730 (4th Cir. 2000).

Accordingly, we affirm the district court's judgment. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials

before this court and argument would not aid the decisional process.

AFFIRMED