

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 12-7461

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

YVONNE MARIE FOUNTAIN,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of North Carolina, at Asheville. Martin K. Reidinger, District Judge. (1:09-cr-00013-MR-DLH-9)

Submitted: October 11, 2012

Decided: October 16, 2012

Before KING, DUNCAN, and DIAZ, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Yvonne Marie Fountain, Appellant Pro Se. Thomas A. O'Malley, OFFICE OF THE UNITED STATES ATTORNEY, Charlotte, North Carolina; Amy Elizabeth Ray, Assistant United States Attorney, Jill Westmoreland Rose, OFFICE OF THE UNITED STATES ATTORNEY, Asheville, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Yvonne Fountain appeals the district court's order denying her 18 U.S.C. § 3582(c)(2) (2006) motion based on Amendment 750 to the Guidelines, the Fair Sentencing Act of 2010 ("FSA"), Pub. L. No. 111-220, and United States v. Simmons, 649 F.3d 237 (4th Cir. 2011). We have reviewed the record and find no reversible error. Because Fountain was sentenced in 2009, prior to the effective date of the FSA, the FSA does not apply to her sentence. United States v. Bullard, 645 F.3d 237, 246-49 (4th Cir. 2011). Simmons similarly provides no relief because Fountain's conviction was punishable by a term exceeding one year. See 649 F.3d at 239. Accordingly, we affirm. 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