

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 12-7544

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

CLIFTON ALVIN CLEVELAND,

Defendant - Appellant.

Appeal from the United States District Court for the District of Maryland, at Greenbelt. Deborah K. Chasanow, Chief District Judge. (8:04-cr-00045-DKC-1; 8:04-cr-00568-DKC-1)

Submitted: December 20, 2012

Decided: December 27, 2012

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

Affirmed by unpublished per curiam opinion.

James Wyda, Federal Public Defender, Paresh S. Patel, Thomas E. Sarachan, Staff Attorneys, Greenbelt, Maryland, for Appellant. Rod J. Rosenstein, United States Attorney, Barbara S. Sale, Assistant United States Attorney, Baltimore, Maryland, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Clifton Alvin Cleveland 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 Cleveland's § 3582 motion, the court did not reduce Cleveland's sentence to the full extent he requested. Cleveland contends that his amended Guidelines range was lower than the reduction he received because he argues that, under the Fair Sentencing Act ("FSA"), he was no longer subject to a statutory mandatory minimum five-year sentence for his 21 U.S.C. § 841 (2006) offense. However, the FSA does not apply retroactively to defendants, like Cleveland, who were sentenced before the FSA's effective date. United States v. Bullard, 645 F.3d 237, 248 (4th Cir.), cert. denied, 132 S. Ct. 356 (2011). Accordingly, we affirm. 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