UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 13-6028

UNITED STATES OF AMERICA,

Plaintiff – Appellee,

v.

ANDRE SHAWN GREEN, a/k/a Andre Greene, a/k/a Dre,

Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at Orangeburg. Margaret B. Seymour, Senior District Judge. (5:08-cr-00944-MBS-10)

Submitted: February 26, 2013 Decided: March 1, 2013

Before MOTZ, WYNN, and DIAZ, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Andre Shawn Green, Appellant Pro Se. Stanley D. Ragsdale, John David Rowell, Assistant United States Attorneys, Columbia, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Andre Shawn Green appeals the district court's order denying Green's 18 U.S.C. § 3582(c)(2) (2006) motion for a sentence reduction. On appeal, Green asserts that the Fair Sentencing Act ("FSA") should apply to lower the statutory mandatory minimum term to which he was originally sentenced because his direct appeal was pending at the time the FSA became effective. However, as Green was sentenced prior to August 3, 2010, the effective date of the FSA, he is not entitled to application of the reduced penalties. See United States v. Bullard, 645 F.3d 237, 248-49 (4th Cir.), cert. denied 132 S. Ct. 356 (2011) (FSA does not apply retroactively to cases pending on direct appeal where defendant was sentenced prior to effective date of the Act). 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