

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 13-6560**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

KEVIN MAURICE SMITH,

Defendant - Appellant.

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Appeal from the United States District Court for the Middle District of North Carolina, at Greensboro. N. Carlton Tilley, Jr., Senior District Judge. (1:98-cr-00369-NCT-1)

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Submitted: August 29, 2013

Decided: September 4, 2013

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Before DUNCAN, AGEE, and KEENAN, Circuit Judges.

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Affirmed by unpublished per curiam opinion.

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Kevin Maurice Smith, Appellant Pro Se. Robert Michael Hamilton, Angela Hewlett Miller, Assistant United States Attorneys, Greensboro, North Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Kevin Maurice Smith appeals the district court's order granting his 18 U.S.C. § 3582(c)(2) (2006) motion and reducing his sentence from life to 360 months. Smith asserts that he is entitled to a further reduction of sentence based on Amendment 591 to the U.S. Sentencing Guidelines and because the district court erred in failing to consider his post-conviction rehabilitative conduct. We find both arguments unavailing. The district court applied Guidelines Amendment 750 and reduced Smith's sentence as much as possible under U.S. Sentencing Guidelines Manual § 1B1.10(b)(2) (2012). Amendment 591 "requires that the initial selection of the offense guideline be based only on the statute or offense of conviction rather than on judicial findings of actual conduct not made by the jury." United States v. Moreno, 421 F.3d 1217, 1219 (11th Cir. 2005). Because Smith was sentenced under the correct offense guideline for his convicted offenses, the Amendment entitles him to no further relief. Accordingly, we affirm the order of the district court. 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