

**UNPUBLISHED**UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 16-7080**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DARYLE LAMONT MCNEILL,

Defendant - Appellant.

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Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. James C. Fox, Senior District Judge. (5:06-cr-00210-F-1)

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Submitted: November 22, 2016

Decided: November 28, 2016

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Before DIAZ and THACKER, Circuit Judges, and DAVIS, Senior Circuit Judge.

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Affirmed by unpublished per curiam opinion.

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Daryle Lamont McNeill, Appellant Pro Se. Jennifer P. May-Parker, Assistant United States Attorney, Raleigh, North Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Daryle Lamont McNeill appeals the district court's order denying his 18 U.S.C. § 3582(c)(2) (2012) motion for a sentence reduction pursuant to Amendment 794 to the Sentencing Guidelines. We have reviewed the record and find no abuse of discretion. See United States v. Munn, 595 F.3d 183, 186 (4th Cir. 2010) (providing standard). Under § 3582(c)(2), the district court may modify the term of imprisonment "of a defendant who has been sentenced . . . based on a sentencing range that has subsequently been lowered," if the amendment is listed in the Guidelines as retroactively applicable. 18 U.S.C. § 3582(c)(2); see U.S. Sentencing Guidelines Manual § 1B1.10 (2016). Section 1B1.10(d) of the Guidelines lists the amendments that receive retroactive application, and this list does not include Amendment 794. Therefore, Amendment 794 cannot be given retroactive effect in a § 3582(c)(2) proceeding. See United States v. Dunphy, 551 F.3d 247, 249 n.2 (4th Cir. 2009); United States v. McHan, 386 F.3d 620, 622 (4th Cir. 2004).

Accordingly, we affirm the district court's order. 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