

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 16-7643

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

BRYAN LAMONT GRIMES,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Rebecca Beach Smith, Chief District Judge. (2:13-cr-00081-RBS-LRL-1)

Submitted: May 31, 2017

Decided: June 6, 2017

Before NIEMEYER, DUNCAN, and AGEE, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Bryan Lamont Grimes, Appellant Pro Se. Stephen Westley Haynie, Assistant United States Attorney, Norfolk, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Bryan Lamont Grimes appeals the district court's orders denying his 18 U.S.C. § 3582(c)(2) (2012) motion for a sentence reduction under Sentencing Guidelines Amendment 782, denying his motion for reconsideration, and denying another post-judgment motion. We affirm.

While a district court lacks authority to reconsider a ruling on a § 3582(c)(2) motion, “this prohibition [is] non-jurisdictional, and thus waived when the government fail[s] to assert it below.” *United States v. May*, 855 F.3d 271, 274 (4th Cir. 2017). Here, “[b]ecause the government failed to raise this non-jurisdictional limitation below, it is waived on appeal.” *Id.* at 275. We therefore analyze Grimes' § 3582(c)(2) motion and motion for reconsideration together.

We review for abuse of discretion a district court's decision whether to reduce a sentence under § 3582(c)(2) and review de novo a district court's conclusion on the scope of its legal authority under that provision. *United States v. Muldrow*, 844 F.3d 434, 437 (4th Cir. 2016). Our review of the record leads us to conclude that the district court did not abuse its discretion in denying Grimes' § 3582(c)(2) motion or motion for reconsideration based on the 18 U.S.C. § 3553(a) (2012) factors, and the fact that Grimes' current sentence falls within the Guidelines range as amended by Amendment 782. Further, we find no reversible error in the district court's denial of Grimes' post-judgment motion.

Accordingly, we affirm the district court's orders. 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