

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 17-6480

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DEMAINE DIWAN BENJAMIN,

Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at
Florence. Terry L. Wooten, Chief District Judge. (4:07-cr-01427-TLW-1)

Submitted: July 20, 2017

Decided: July 25, 2017

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

Affirmed by unpublished per curiam opinion.

Demaine Diwan Benjamin, Appellant Pro Se. Carrie Fisher Sherard, Assistant United
States Attorney, Greenville, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Demaine Diwan Benjamin appeals the district court's orders denying relief on his motion for reduction in sentence pursuant to 18 U.S.C. § 3582(c)(2) (2012) and denying his motion for reconsideration.* We have reviewed the record and find no reversible error. *See United States v. Muldrow*, 844 F.3d 434, 437 (4th Cir. 2016) (providing standard). Accordingly, we affirm. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED

* Although 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 Benjamin’s § 3582(c)(2) motion and motion for reconsideration together.