

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 17-6941

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DANNY L. BLACKMON,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of North Carolina, at
Wilmington. Terrence W. Boyle, District Judge. (7:03-cr-00077-BO-1)

Submitted: September 28, 2017

Decided: October 3, 2017

Before WILKINSON, MOTZ, and KING, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Danny L. Blackmon, Appellant Pro Se. Seth Morgan Wood, Assistant United States
Attorney, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Danny L. Blackmon appeals from the district court's order denying his Fed. R. Crim. P. 36 motion. Blackmon sought to delete or correct information from his presentence report ("PSR"). Because the relief he seeks is not available by way of Rule 36, we affirm.

Rule 36 provides that "[a]fter giving any notice it considers appropriate, the court may at any time correct a clerical error in a judgment, order, or other part of the record, or correct an error in the record arising from oversight or omission." The Advisory Committee Notes to Rule 36 point out that Rule 36 is similar to Fed. R. Civ. P. 60(a), which provides for the correction of clerical mistakes in civil orders. The Ninth Circuit explained the type of clerical mistakes that may be corrected under Rule 60(a) as follows:

The basic distinction between "clerical mistakes" and mistakes that cannot be corrected pursuant to Rule 60(a) is that the former consist of "blunders in execution" whereas the latter consist of instances where the court *changes its mind*, either because it made a legal or factual mistake in making its original determination, or because on second thought it has decided to exercise its discretion in a manner different from the way it was exercised in the original determination.

Blanton v. Anzalone, 813 F.2d 1574, 1577 n.2 (9th Cir. 1987). Blackmon failed to show any clerical errors in the PSR.

Accordingly, we affirm. 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