

UNPUBLISHED

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

No. 17-7012

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ARNOLD MARK HENRY, a/k/a B,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Henry Coke Morgan, Jr., Senior District Judge. (2:93-cr-00131-HCM-3)

Submitted: December 21, 2017

Decided: December 28, 2017

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

Affirmed by unpublished per curiam opinion.

Arnold Mark Henry, Appellant Pro Se. Kevin Michael Comstock, Assistant United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Norfolk, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Arnold Mark Henry appeals the district court's order denying relief on his 18 U.S.C. § 3582(c)(2) (2012) motion. We have reviewed the record and find no reversible error. Accordingly, we affirm substantially for the reasons stated by the district court.* *United States v. Henry*, No. 2:93-cr-00131-HCM-3 (E.D. Va. July 28, 2017). 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

* While a district court lacks authority to rule on a successive § 3582(c)(2) motion, “this prohibition [is] non-jurisdictional, and thus waived when the government failed 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.