

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 18-4719

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DELWYN JAMAR SMITH,

Defendant - Appellant.

Appeal from the United States District Court for the Middle District of North Carolina, at Greensboro. N. Carlton Tilley, Jr., Senior District Judge. (1:18-cr-00014-NCT-1)

Submitted: April 12, 2019

Decided: April 23, 2019

Before KING and KEENAN, Circuit Judges, and DUNCAN, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

James B. Craven III, Durham, North Carolina, for Appellant. Matthew G.T. Martin, United States Attorney, Terry M. Meinecke, Assistant United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Winston-Salem, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Delwyn Smith pled guilty to possession of ammunition by a convicted felon, 18 U.S.C. § 922(g)(1) (2012), and was sentenced to 57 months in prison. He appeals, claiming that the district court erred when it denied his motion for a downward departure. Our review of the record, including the sentencing transcript, discloses that the district court did not mistakenly believe that it lacked the authority to depart. Accordingly, Smith “cannot contest on appeal the court’s failure to depart downward.” *See United States v. Louthian*, 756 F.3d 295, 306 (4th Cir. 2014). We therefore 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