

UNPUBLISHED

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

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

TRENTON NEIL HENRY, a/k/a
Christopher Michael Becton, a/k/a
Mark John Johnson, a/k/a Kiseem
Phillips, a/k/a Deshaun Christopher
Sumlin,

Defendant-Appellant.

No. 00-4830

Appeal from the United States District Court
for the Western District of Virginia, at Danville.
Norman K. Moon, District Judge.
(CR-00-3)

Submitted: April 10, 2001

Decided: June 14, 2001

Before LUTTIG, MICHAEL, and GREGORY, Circuit Judges.

Affirmed by unpublished per curiam opinion.

COUNSEL

James R. Cromwell, VOGEL & CROMWELL, Roanoke, Virginia,
for Appellant. Joseph William Hooge Mott, Assistant United States
Attorney, Roanoke, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

OPINION

PER CURIAM:

On appeal, Trenton Neil Henry challenges the district court's application of this court's decision in *United States v. McHan*, 101 F.3d 1036 (4th Cir. 1996), in denying him a downward departure to credit him for time served in a fully discharged prison term for a related offense. For the following reasons, we affirm.

Where a defendant appeals a refusal to grant a downward departure based on the legal conclusion that such a departure is impermissible, this court may review a district court's legal interpretation of the Guidelines de novo. See *United State v. Wilkinson*, 137 F.3d 214, 230 (4th Cir. 1998). However, both the district courts of this circuit and subsequent panels of this court are obliged to follow a decision of this court until it has been overruled by the Supreme Court or a decision by this court en banc. See *Chisolm v. TranSouth Financial Corp.*, 95 F.3d 331, 337 n.7 (4th Cir. 1995); *Doe v. Charleston Area Med. Ctr., Inc.*, 529 F.2d 638, 642 (4th Cir. 1975). Hence, because the district court properly followed relevant precedent of this circuit, we find no grounds for reversal.

Accordingly, we deny the Government's motion to dismiss and affirm Henry's conviction. No member of this court requested that a poll be taken with respect to Henry's Petition For Hearing En Banc. Accordingly, we deny that petition as well. 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 in the decisional process.

AFFIRMED