

UNPUBLISHED
UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

UNITED STATES OF AMERICA,
Plaintiff-Appellee,
v.
WILLIAM MICHAEL SMITH,
Defendant-Appellant.

No. 01-4704

Appeal from the United States District Court
for the Northern District of West Virginia, at Elkins.
Robert Earl Maxwell, Senior District Judge.
(CR-01-5)

Submitted: December 5, 2001

Decided: December 18, 2001

Before LUTTIG, MICHAEL, and MOTZ, Circuit Judges.

Affirmed by unpublished per curiam opinion.

COUNSEL

Max H. White, Keyser, West Virginia, for Appellant. Thomas E. Johnston, United States Attorney, Sherry L. Muncy, Assistant United States Attorney, Elkins, West Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

OPINION

PER CURIAM:

William Michael Smith pled guilty to one count of being a felon in possession of a firearm in violation of 18 U.S.C.A. § 922(g)(1) (West 2000). Because Smith had three prior violent felony convictions, the district court imposed the statutory minimum fifteen year term of imprisonment. *See* 18 U.S.C.A. § 924(e)(1) (West 2000). On appeal, Smith argues that the court erred by not departing below the statutory minimum sentence. Finding no reversible error, we affirm.

A sentencing court may not depart below a statutory mandatory minimum sentence unless the government moves for such a departure based upon substantial assistance, *see* 18 U.S.C.A. § 3553(e) (West 2000); *United States v. Patterson*, 38 F.3d 139, 146 n.8 (4th Cir. 1994), or under the safety valve provision. *See* 18 U.S.C.A. § 3553(f) (West 2000). Because neither of these provisions apply in the instant case, the district court did not err by declining to depart below the fifteen year statutory minimum term of imprisonment. *See United States v. Reynolds*, 215 F.3d 1210, 1215 (11th Cir.), *cert. denied*, 531 U.S. 1000 (2000).

Accordingly, we affirm the conviction and sentence. 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