

UNPUBLISHED
UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

UNITED STATES OF AMERICA,
Plaintiff-Appellee,
v.
RUTHERFORD RONALD ROGERS,
Defendant-Appellant.

No. 01-6225

Appeal from the United States District Court
for the District of Maryland, at Baltimore.
J. Frederick Motz, Chief District Judge.
(CR-88-70-K)

Submitted: April 24, 2001

Decided: May 15, 2001

Before WILKINS and GREGORY, Circuit Judges, and
HAMILTON, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

COUNSEL

Rutherford Ronald Rogers, Appellant Pro Se. E. Thomas Roberts,
Assistant United States Attorney, Baltimore, Maryland, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

OPINION

PER CURIAM:

Rutherford Ronald Rogers filed a motion to correct an illegal sentence under former Fed. R. Crim. P. 35(a), applicable to offenses committed before November 1, 1987, challenging offenses he committed both before and after that date. The district court denied Rogers' claims on the merits. We have reviewed the record and the district's opinion and find no reversible error in the denial of relief relating to the offenses Rogers committed before November 1, 1987. Accordingly, we affirm this portion of the district court's order on the reasoning of the district court. *United States v. Rogers*, No. CR-88-70-K (D. Md. filed Jan. 12, 2001; entered Jan. 16, 2001).

With regard to Rogers' challenge to the offenses he committed after November 1, 1987, former Rule 35(a) does not apply. The current Rule 35(a), applicable to offenses committed after November 1, 1987, specifies the circumstances under which a sentence may be modified; none of those circumstances is present here. Because Rogers may not proceed under the former rule to challenge the offenses he committed after November 1, 1987, we affirm the denial of relief on that ground.* *United States v. Lofton*, 233 F.3d 313, 317 n.4 (4th Cir. 2000) (recognizing that appellate court may affirm result on reasons different from those on which lower court relied). 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

*Construing the Rule 35 motion as one filed under 28 U.S.C.A. § 2255 (West Supp. 2000) does not save the action. Before Rogers may file a successive § 2255 motion, he must obtain authorization from this court under 28 U.S.C.A. § 2244 (West Supp. 2000).