

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 04-6199

DARRELL L. PADGETT,

Petitioner - Appellant,

versus

UNITED STATES OF AMERICA,

Respondent - Appellee.

Appeal from the United States District Court for the Southern District of West Virginia, at Bluefield. Elizabeth V. Hallanan, Senior District Judge. (CR-91-166; CA-03-571-1)

Submitted: July 15, 2004

Decided: July 21, 2004

Before MOTZ, KING, and GREGORY, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Darrell L. Padgett, Appellant Pro Se. Michael Lee Keller, OFFICE OF THE UNITED STATES ATTORNEY, Charleston, West Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Darrell L. Padgett appeals from the district court's adoption of the magistrate judge's recommendation to deny Padgett's 18 U.S.C. § 3582(c)(2) (2000) motion for reduction of his sentence. Padgett based his motion on Amendment 591 to the United States Sentencing Guidelines. Because our review of the record shows that application of Amendment 591 would not change the calculation of Padgett's sentence, we grant leave to proceed in forma pauperis and affirm the order of the district court. 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