

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 04-6546

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

RODERICK BLACK,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of North Carolina, at Elizabeth City. Terrence W. Boyle, Chief District Judge. (CR-94-15)

Submitted: June 24, 2004

Decided: July 2, 2004

Before WILKINSON, NIEMEYER, and SHEDD, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Roderick Black, Appellant Pro Se. Frank DeArmon Whitney, United States Attorney, Rudolf A. Renfer, Jr., Assistant United States Attorney, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Roderick Black appeals the district court's order dismissing without prejudice Black's motion for a reduction in sentence under 18 U.S.C. § 3582(c) (2000). Black contends that he is entitled to a reduction in sentence based upon Amendments 505 and 516 to the United States Sentencing Guidelines, which reduced the upper limit of the Drug Quantity Table and became effective November 1, 1995. This claim was raised and rejected in Black's earlier § 3582 motion. Accordingly, we affirm the district court's order.* 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

*The district court construed Black's § 3582(c) motion as a motion filed under 28 U.S.C. § 2255 (2000), and dismissed it without prejudice on the ground that it was successive. To the extent that Black's motion could be construed as a § 2255 motion, relief would not be warranted because it would be successive.