

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 05-4340

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

DEON CHRISTOPHER NOWELL, a/k/a Sandra D.
Crawley,

Defendant - Appellant.

Appeal from the United States District Court for the District of
South Carolina, at Charleston. David C. Norton, District Judge.
(CR-04-680)

Submitted: January 4, 2006

Decided: January 24, 2006

Before WILKINSON, SHEDD, and DUNCAN, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Melisa W. Gay, GAY & ASSOCIATES, P.C., Mt. Pleasant, South
Carolina, for Appellant. Jonathan S. Gasser, Acting United States
Attorney, Columbia, South Carolina; Brent Alan Gray, Assistant
United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY,
Charleston, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Defendant Deon Nowell pleaded guilty on October 13, 2004 to multiple drug and gun offenses. These offenses included, inter alia, possession of fifty or more grams of "crack" cocaine with intent to distribute, see 21 U.S.C. § 841(a)(1) (2000), and possession of a firearm in furtherance of a drug trafficking crime, see 18 U.S.C. § 924(c)(1)(A)(I) (2000). Because Nowell has prior drug convictions, the former carries a mandatory minimum sentence of 240 months. See 21 U.S.C. § 841(b)(1)(A)(iii) (2000 & Supp. II 2002). The latter carries a mandatory minimum sentence of 60 months, to be served consecutively to the sentence for the underlying drug crime. See 18 U.S.C. § 924(c)(1)(A)(I).

The district court consequently imposed a 300-month sentence. Nowell filed a motion for a downward departure pursuant to U.S.S.G. §§ 5K2.0 and 5H1.4, which the district court denied. Nowell appeals.

We affirm. United States v. Booker, 125 S. Ct. 738 (2005), "did nothing to alter the rule that judges cannot depart below a statutorily provided minimum sentence." United States v. Robinson, 404 F.3d 850, 862 (4th Cir. 2005). Departure below a statutory mandatory minimum is authorized only on a motion by the government based upon a defendant's substantial assistance. See id.; see also 18 U.S.C. § 3553(e) (Supp. II 2002). The government made no such

motion here, and the district court correctly recognized that it therefore had no authority to reduce Nowell's sentence.

We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before us and argument would not aid the decisional process.

AFFIRMED