

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 05-6930

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

TODD ANTONIO FOSTER,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. Claude M. Hilton, District Judge. (CR-93-402)

Submitted: March 31, 2006

Decided: May 2, 2006

Before WILLIAMS, MICHAEL, and MOTZ, Circuit Judges.

Vacated and remanded by unpublished per curiam opinion.

Todd Antonio Foster, Appellant Pro Se. James L. Trump, OFFICE OF THE UNITED STATES ATTORNEY, Alexandria, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Todd Antonio Foster appeals the district court's order denying his motion filed under 18 U.S.C.A. § 3582(c)(2) (West 2005). Foster asserts that his sentence should be reduced based on Amendment 505 of the United States Sentencing Guidelines. Amendment 505 is among the guidelines provisions that the district court, may, in its discretion, apply to reduce a sentence under § 3582(c). USSG § 1B1.10 & comment. (n.3); United States v. Legree, 205 F.3d 724, 727 (4th Cir. 2000). We review the denial of a motion to modify a sentence for abuse of discretion. United States v. Turner, 59 F.3d 481, 483 (4th Cir. 1995). A court abuses its discretion if it fails or refuses to exercise discretion, or if it relies on erroneous factual or legal premises. James v. Jacobson, 6 F.3d 233, 239 (4th Cir. 1993); see also Randall v. Prince George's County, 302 F.3d 188, 211 (4th Cir. 2002).

In the present case, the record contains only Foster's motion, the district court's brief order denying that motion, and the notice of appeal. The district court's order does not expressly reflect its consideration of the factors set forth in 18 U.S.C.A. § 3553(a) (West 2005), and we cannot discern a basis for the decision on the sparse record before us. Thus, we find ourselves unable to meaningfully exercise our appellate responsibilities.

Accordingly, we vacate the district court's order and remand for further proceedings. 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.

VACATED AND REMANDED