

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 07-7166

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ROBERT CY MANN,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Raymond A. Jackson, District Judge. (2:98-cr-00047-11)

Submitted: June 6, 2008

Decided: September 18, 2008

Before MOTZ, TRAXLER, and DUNCAN, Circuit Judges.

Affirmed as modified by unpublished per curiam opinion.

Robert Cy Mann, Appellant Pro Se. Darryl James Mitchell, Special Assistant United States Attorney, Norfolk, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Robert Cy Mann appeals the district court's order denying his motion for correction of sentence filed under 18 U.S.C.A. § 3582 (West 2005). 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). Our review of the record discloses no abuse of discretion in the district court's denial of relief. We affirm the district court's order as modified to reflect that the motion was denied without prejudice so that Mann may refile his motion should he obtain proper evidence of exhaustion from the Bureau of Prisons. 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 AS MODIFIED