

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-6660

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ALEXANDER REID, a/k/a Batman,

Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at Charleston. Patrick Michael Duffy, District Judge. (2:97-cr-00577-PMD-1)

Submitted: September 11, 2008

Decided: September 16, 2008

Before WILKINSON and NIEMEYER, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

Mary Gordon Baker, Assistant Federal Public Defender, Charleston, South Carolina, for Appellant. Alston Calhoun Badger, Jr., Assistant United States Attorney, Charleston, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Alexander Reid appeals the district court's order denying his motion for credit of over-served time. Reid contends he is entitled to a credit for time served and that credit should be applied to his current term of imprisonment.

Reid pled guilty to conspiracy to distribute cocaine base and served his sentence of 135 months of imprisonment. Reid subsequently violated his conditions of supervised release, and the district court revoked supervised release and ordered an additional thirty-seven months of imprisonment. Reid argues he is entitled to a retroactive reduction of his sentence for conspiracy to distribute cocaine, under the recent amendments to the United States Sentencing Guidelines. See U.S.S.G. §§ 1B1.10, 2D1.1, App'x C, Amend. 706 (2007 & Supp. May 1, 2008). Reid states he should receive a credit for the excess time he served based on the amendments to the guidelines, and the district court should apply this credit against his current sentence for revocation of supervised release.

The application notes accompanying the guidelines amendment state, "[i]n no case, however, shall the term of imprisonment be reduced below time served." U.S.S.G. § 1B1.10 comment. (n.3). Thus, we decline to reduce Reid's sentence for his cocaine base conviction below the amount of time he has already served for the crime. Furthermore, the Guidelines application

notes provide that the amendment "does not authorize a reduction in the term of imprisonment imposed upon revocation of supervised release." U.S.S.G. § 1B1.10 comment. (n.4(A)).

Accordingly, we affirm the district court's order. We deny Reid's motion for appointment of counsel. 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