

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-7118

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DUDLEY KIM SMITH,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of Virginia, at Charlottesville. James P. Jones, Chief District Judge. (3:99-cr-00007-jpj-6)

Submitted: April 22, 2010

Decided: April 26, 2010

Before TRAXLER, Chief Judge, and KING and AGEE, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Dudley Kim Smith, Appellant Pro Se. Bruce A. Pagel, OFFICE OF THE UNITED STATES ATTORNEY, Charlottesville, Virginia; Jeb Thomas Terrien, Assistant United States Attorney, Harrisonburg, Virginia; Donald Ray Wolthuis, Assistant United States Attorney, Roanoke, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Dudley Smith appeals the district court's order granting his 18 U.S.C. § 3582(c) (2006) motion. Insofar as Smith claims the court could have considered an even lower sentence below the Sentencing Guidelines range, this claim is foreclosed by United States v. Dunphy, 551 F.3d 247 (4th Cir.) ("[A] district judge is not authorized to reduce a defendant's sentence below the amended guideline range."), cert. denied, 129 S. Ct. 2401 (2009). We have reviewed the record and find no reversible error. Accordingly, we affirm for the reasons stated by the district court. United States v. Smith, No. 3:99-cr-00007-jpj-1 (W.D. Va. June 11, 2008). 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