

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 08-7153**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JOHNNY JOSEPH, a/k/a Joe Sanders,

Defendant - Appellant.

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Appeal from the United States District Court for the District of South Carolina, at Florence. Cameron McGowan Currie, District Judge. (4:00-cr-00067-CMC-1)

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Submitted: February 19, 2009

Decided: February 24, 2009

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Before WILKINSON, DUNCAN, and AGEE, Circuit Judges.

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Affirmed by unpublished per curiam opinion.

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Johnny Joseph, Appellant Pro Se. Alfred William Walker Bethea, Jr., Assistant United States Attorney, Florence, South Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Johnny Joseph appeals from the district court's order granting in part his 18 U.S.C. § 3582(c)(2) (2006) motion for reduction of sentence based on the crack cocaine amendments to the Sentencing Guidelines. The district court reduced Joseph's sentence to the minimum of the amended Guidelines range. Joseph asserts that the district court erred in failing to recalculate his drug quantity and in failing to permit him to respond to the Probation Office's recommendation. However, in a § 3582 proceeding, the district court may only consider the effect of the retroactive amendment, not any other sentencing or Guidelines issues. United States Sentencing Guidelines Manual § 1B1.10, p.s., comment. (n.2) (2008). Further, any procedural error by the district court was harmless, as Joseph was sentenced to the lowest available sentence. See United States v. Dunphy, 551 F.3d 247 (4th Cir. 2009) (holding that district court lacks jurisdiction to reduce sentence below minimum of amended Guidelines range). Accordingly, we affirm the district court's order. We grant Joseph's motion to file supplemental authorities and deny his motion for remand. 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