

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-8129

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MARCEL BARNES, a/k/a Larry Kevin Brown,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Rebecca Beach Smith, District Judge. (2:94-cr-00052-RBS-3)

Submitted: December 5, 2008

Decided: January 7, 2009

Before NIEMEYER, KING, and GREGORY, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Marcel Barnes, Appellant Pro Se. Laura Marie Everhart,
Assistant United States Attorney, Norfolk, Virginia, for
Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Marcel Barnes appeals from the district court's order denying his 18 U.S.C. § 3582(c)(2) (2006) motion, in which he sought the benefit of Amendment 715 of the sentencing guidelines. See U.S. Sentencing Guidelines Manual Amend. 715 (2008). Because Barnes' offense involved well in excess of 4.5 kilograms of cocaine base* as well as quantities of other drugs, he is not entitled to a reduction of his 360-month sentence. Amendment 715 specifically excepts from its coverage offenses involving "4.5 kg. or more . . . of cocaine base." USSG Amend. 715. Accordingly, we affirm. 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

* According to Barnes' presentence report, he was responsible for 24.615 kilograms of cocaine base, 13.407 kilograms of cocaine, and .838 kilograms of marijuana.