

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 08-8494**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ERNEST M. BOOKER, a/k/a E, a/k/a Shawndell Campbell,

Defendant - Appellant.

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Appeal from the United States District Court for the Eastern District of Virginia, at Richmond. James R. Spencer, Chief District Judge. (3:03-cr-00394-JRS-3)

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Submitted: June 4, 2009

Decided: June 9, 2010

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Before NIEMEYER, MOTZ, and DUNCAN, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Amy Leigh Austin, OFFICE OF THE FEDERAL PUBLIC DEFENDER, Richmond, Virginia, for Appellant. Roderick Charles Young, Assistant United States Attorney, Richmond, Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Ernest M. Booker appeals the district court's order denying his 18 U.S.C. § 3582(c)(2) (2006) motion for reduction of sentence. We have reviewed the record and conclude that the appeal is moot because Booker is no longer in custody. See U.S. Sentencing Guidelines Manual § 1B1.10(b)(2)(C), p.s. (2009); Incumaa v. Ozmint, 507 F.3d 281, 285-86 (4th Cir. 2007) (setting forth the principles of appellate mootness). We therefore dismiss the appeal as moot and deny Booker's motion to appoint 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.

DISMISSED