

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 10-6494

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JAMES L. PETTUS,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Richmond. Henry E. Hudson, District Judge. (3:07-cr-00009-HEH-1)

Submitted: June 15, 2010

Decided: July 13, 2010

Before MOTZ, AGEE, and DAVIS, Circuit Judges.

Affirmed by unpublished per curiam opinion.

James L. Pettus, Appellant Pro Se. Olivia N. Hawkins, OFFICE OF THE UNITED STATES ATTORNEY, Richmond, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

James L. Pettus appeals the district court's order denying his motion to alter or amend a judgment. We affirm.

Pettus's motion to alter or amend was filed in response to the district court's partial grant of his motion for a reduction in sentence pursuant to 18 U.S.C. § 3582(c)(2) (2006). The district court awarded Pettus a two-level reduction in his total offense level pursuant to Amendment 706 of the United States Sentencing Guidelines Manual and reduced Pettus's sentence from 180 months imprisonment to 154 months. Pettus claimed in his motion to alter or amend that he should have been sentenced at the low end of the revised Guidelines range. On appeal, he argues that he was entitled to a full resentencing under United States v. Booker, 543 U.S. 245 (2007).

In United States v. Goodwyn, 596 F.3d 233, 235 (4th Cir. 2010), we concluded that a district court is without jurisdiction to entertain a motion to alter or amend a judgment granting or denying relief on a § 3582(c) motion unless the motion to alter or amend was made to correct "an arithmetical, technical, or other clear error." Because Pettus challenges the merits of the district court's decision in his motion to alter

or amend, we conclude that the district court lacked jurisdiction to hear the motion.*

We therefore affirm the judgment of the district court. 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

* Our decision to affirm is also supported by the Supreme Court's recent holding that the remedial aspect of Booker does not make the Sentencing Guidelines advisory in a § 3582(c) proceeding. Dillon v. United States, 2010 WL 2400109 (U.S. June 17, 2010) (No. 09-6338); see also United States v. Dunphy, 551 F.3d 247, 251-52 (4th Cir.), cert. denied, 129 S. Ct. 2401 (2009) (holding same).