

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 10-7307

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DARRELL P. JOHNSON,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of Virginia, at Big Stone Gap. James P. Jones, District Judge. (2:01-cr-10079-jpj-1)

Submitted: November 18, 2010

Decided: December 2, 2010

Before SHEDD and AGEE, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

Darrell P. Johnson, Appellant Pro Se. Eric Matthew Hurt, Assistant United States Attorney, Newport News, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Darrell P. Johnson appeals the district court's order denying his motion to determine whether Amendment 709 is clarifying or substantive pursuant to USSG § 1B1.1.11(b)(2) and 18 U.S.C. § 3582(a), (c)(2) (2006). We have reviewed the record and find no reversible error. Accordingly, we deny Johnson's motion for appointment of counsel and affirm for the reasons stated by the district court. United States v. Johnson, No. 2:01-cr-10079-jpj-1 (W.D. Va. Aug. 20, 2010). 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