

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 10-7631

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

LINO ZEPEDA GOMEZ, a/k/a Lino Zepada, a/k/a Lino S. Cepeda,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of North Carolina, at Wilmington. James C. Fox, Senior District Judge. (7:01-cr-00069-F-1)

Submitted: May 3, 2011

Decided: May 24, 2011

Before NIEMEYER, AGEE, and DAVIS, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Lino Zepeda Gomez, Appellant Pro Se. Jennifer P. May-Parker, Assistant United States Attorney, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Lino Zepeda Gomez appeals the district court's order denying his motion for reduction of sentence pursuant to 18 U.S.C. § 3582(c)(2) (2006) based on Amendment 709. Because this amendment is not expressly listed in U.S. Sentencing Guidelines Manual § 1B1.10(c) (2010), the district court lacked authority to apply the amendment retroactively. See United States v. Dunphy, 551 F.3d 247, 249 n.2 (4th Cir. 2009). Accordingly, we affirm the district court's order. See United States v. Gomez, No. 7:01-cr-00069-F-1 (E.D.N.C. Nov. 8, 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