

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 11-7071

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JOHN ANDREW SPEAGLE, SR.,

Defendant - Appellant.

Appeal from the United States District Court for the Western
District of North Carolina, at Statesville. Richard L.
Voorhees, District Judge. (5:05-cr-00234-RLV-CH-2)

Submitted: December 15, 2011

Decided: December 20, 2011

Before GREGORY, SHEDD, and DAVIS, Circuit Judges.

Affirmed by unpublished per curiam opinion.

John Andrew Speagle, Sr., Appellant Pro Se. Amy Elizabeth Ray,
Assistant United States Attorney, Asheville, North Carolina, for
Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

John Andrew Speagle, Sr., appeals the district court's order denying his 18 U.S.C. § 3582(c)(2) (2006) motion for reduction of sentence based on the Government's failure to file a U.S. Sentencing Guidelines Manual ("USSG") § 5K1.1 motion for a downward departure. Because Speagle's claim is not a proper basis for a motion under 18 U.S.C. § 3582(c)(2), see USSG § 1B1.10 cmt. n.1(A), we affirm the district court's order.* 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

* We may affirm a district court's judgment on any grounds apparent from the record. See MM ex rel. DM v. Sch. Dist. of Greenville Cnty., 303 F.3d 523, 536 (4th Cir. 2002).