

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 12-7754**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

TOMMY LEWIS BENNETT, JR.,

Defendant - Appellant.

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Appeal from the United States District Court for the Middle District of North Carolina, at Greensboro. N. Carlton Tilley, Jr., Senior District Judge. (1:08-cr-00369-NCT-2)

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Submitted: March 28, 2013

Decided: April 1, 2013

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Before NIEMEYER, KING, and KEENAN, Circuit Judges.

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Affirmed by unpublished per curiam opinion.

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Tommy Lewis Bennett, Jr., Appellant Pro Se. Angela Hewlett Miller, Assistant United States Attorney, Greensboro, North Carolina; Paul Alexander Weinman, OFFICE OF THE UNITED STATES ATTORNEY, Winston-Salem, North Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Tommy Lewis Bennett, Jr., appeals the district court's order denying his 18 U.S.C. § 3582(c)(2) (2006) motion for a sentence reduction based on Amendment 750 to the crack cocaine Sentencing Guidelines. We review the district court's decision for abuse of discretion; however, "[w]e review de novo . . . a court's conclusion on the scope of its legal authority under § 3582(c)(2)." United States v. Munn, 595 F.3d 183, 186 (4th Cir. 2010). Because Bennett's sentence was not based on a Guidelines provision that was subsequently amended, Bennett is ineligible for a reduction via § 3582(c)(2). See id. at 187 ("[A] defendant who was convicted of a crack offense but sentenced pursuant to a mandatory statutory minimum sentence is ineligible for a reduction under § 3582(c)(2).") (citing United States v. Hood, 556 F.3d 226, 235-36 (4th Cir. 2009)). Accordingly, we affirm for the reasons stated by the district court. United States v. Bennett, No. 1:08-cr-00369-NCT-2 (M.D.N.C. Sept. 25, 2012). We deny Bennett's motions for appointment of counsel and provision of transcripts.

We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED