

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 12-7912**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JIMMY EDWARDS, JR.,

Defendant - Appellant.

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Appeal from the United States District Court for the Eastern District of North Carolina, at Wilmington. James C. Dever, III, Chief District Judge. (7:07-cr-00011-D-1)

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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Affirmed by unpublished per curiam opinion.

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Jimmy Edwards, Jr., Appellant Pro Se. Jennifer P. May-Parker, Assistant United States Attorney, Raleigh, North Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Jimmy Edwards, Jr., appeals from the district court's order denying his motion for a sentence departure under U.S. Sentencing Guidelines Manual § 5H1.11 (2012). As Edwards was sentenced in 2007, his motion is untimely. In addition, to the extent Edwards relies upon Amendment 739 to the Guidelines (amending § 5H1.11 in 2010), this amendment has not been made retroactively applicable. See USSG § 1B1.10(c). Accordingly, we affirm. 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