

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 16-6009

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

RAFAEL CEE-ERWIN SOLOMON, a/k/a J, a/k/a Rip,

Defendant - Appellant.

Appeal from the United States District Court for the Southern District of West Virginia, at Huntington. Robert C. Chambers, Chief District Judge. (3:11-cr-00203-1)

Submitted: March 29, 2016

Decided: April 1, 2016

Before GREGORY and DUNCAN, Circuit Judges, and DAVIS, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

Rafael Cee-Erwin Solomon, Appellant Pro Se. Richard Gregory McVey, Assistant United States Attorney, Huntington, West Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Rafael Cee-Erwin Solomon appeals the denial of his motion for a sentence reduction under Amendment 782 pursuant to 18 U.S.C. § 3582(c)(2) (2012). “We review de novo a district court’s ruling on the scope of its legal authority under 18 U.S.C. § 3582(c)(2).” United States v. Williams, 808 F.3d 253, 256 (4th Cir. 2015). Solomon argues that United States v. Munn, 595 F.3d 183, 192 (4th Cir. 2010) authorizes the modification of a career offender’s sentence where, as in his case, a downward variance was granted. But even if our holding in Munn, which considered an overrepresentation departure, could encompass a downward variance, the Sentencing Commission abrogated Munn by defining “applicable guideline range” as “the guideline range that corresponds to the offense level and criminal history category determined . . . before consideration of any departure provision . . . or any variance.” U.S. Sentencing Guidelines Manual App. C, Amend. 759 (2011); see USSG § 1B1.10 cmt.n.1(A). Accordingly, we affirm for the reasons stated by the district court. United States v. Solomon, No. 3:11-cr-00203-1 (S.D.W. Va. Nov. 25, 2015; Dec. 14, 2015). 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