

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

---

**No. 16-7022**

---

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MARQUIS ANTHONY NELSON,

Defendant - Appellant.

---

Appeal from the United States District Court for the Southern District of West Virginia, at Bluefield. Irene C. Berger, District Judge. (1:08-cr-00058-1; 1:15-cv-13059)

---

Submitted: October 13, 2016

Decided: October 18, 2016

---

Before NIEMEYER, DUNCAN, and WYNN, Circuit Judges.

---

Affirmed as modified by unpublished per curiam opinion.

---

Marquis Anthony Nelson, Appellant Pro Se. John Lanier File, Assistant United States Attorney, Beckley, West Virginia; Steven Loew, Assistant United States Attorney, Charleston, West Virginia, for Appellee.

---

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Marquis Anthony Nelson appeals the district court's order denying his motion for an evidentiary hearing. We have reviewed the record and find no reversible error. However, we affirm as modified to reflect that Nelson's motion is dismissed without prejudice for lack of jurisdiction. See United States v. Modanlo, 762 F.3d 403, 408 (4th Cir. 2014) (holding that "district court does not regain jurisdiction until the issuance of the mandate by the clerk of the court of appeals" (internal quotation marks omitted)). 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 AS MODIFIED