

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 95-7475

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

GLEN ALAN LEE,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of Virginia, at Charlottesville. James H. Michael, Jr., Senior District Judge. (CR-90-129)

Submitted: April 9, 1996

Decided: April 19, 1996

Before NIEMEYER and WILLIAMS, Circuit Judges, and PHILLIPS, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

Edward Hendricks Childress, Charlottesville, Virginia, for Appellant. Donald Ray Wolthuis, OFFICE OF THE UNITED STATES ATTORNEY, Roanoke, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Appellant appeals from the district court's order granting his 28 U.S.C. § 2255 (1988) motion to the extent that Appellant was incorrectly sentenced as a career offender, and resentencing Appellant based on an additional amount of uncharged drugs pursuant to USSG 2D1.1, comment. (n.12) (Nov. 1994). Appellant's objection is that the additional drug amount was not included in calculating Appellant's original sentence. We have reviewed the record and the district court's opinion and find no reversible error. The district court properly considered Appellant's sentence de novo, entertaining evidence relating to the additional amount of uncharged drugs pursuant to USSG 2D1.1, comment. (n.12). See, e.g., United States v. Bell, 5 F.3d 64, 67 (4th Cir. 1993) (concerning resentencing upon appellate remand). 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