

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 97-6873

FREDERICK JAMES DEXTER,

Plaintiff - Appellant,

versus

FEDERAL BUREAU OF PRISONS,

Defendant - Appellee.

Appeal from the United States District Court for the Northern District of West Virginia, at Clarksburg. William M. Kidd, Senior District Judge. (CA-97-99-1)

Submitted: September 29, 1998

Decided: October 26, 1998

Before MURNAGHAN, HAMILTON, and MOTZ, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Frederick James Dexter, Appellant Pro Se. Rebecca A. Betts, United States Attorney, Charleston, West Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Frederick James Dexter appeals from a district court order denying relief on his petition filed under 28 U.S.C. § 2241 (1994). Dexter asserts that the Bureau of Prisons ("BOP") erred in finding him ineligible for a sentence reduction under 18 U.S.C.A. § 3621(e)(2) (West Supp. 1998). The BOP found that Dexter's offense was not considered a "nonviolent offense" because he had received a two-level enhancement under U.S. SENTENCING GUIDELINES MANUAL § 2D1.1(b)(1) (1992), for possessing a firearm during a drug trafficking crime.

While Dexter's appeal was pending, however, the BOP revised its definition of "nonviolent offense," explicitly including possession of a firearm in its determination of disqualifying offenses. See 28 C.F.R. § 550.58 (1997). Accordingly, Dexter's case is governed by our recent decision in Pelissero v. Thompson, ___ F.3d ___, 1998 WL 559663 (4th Cir. Sept. 3, 1998) (Nos. 97-6156, 97-6221) (holding that revised § 550.58 applies to cases pending on the date of enactment and is a valid exercise of the BOP's discretion under § 3621(e)). We therefore affirm the district court's denial of relief. 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