

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 01-6391

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

FRANCISCO PARTALEON NUNEZ,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of North Carolina, at Wilmington. James C. Fox, Senior District Judge. (CR-99-2-FO)

Submitted: June 21, 2001

Decided: June 29, 2001

Before WIDENER and GREGORY, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

Francisco Partaleon Nunez, Appellant Pro Se. John Eric Evenson, II, Assistant United States Attorney, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Francisco Partaleon Nunez appeals the district court's order denying his motion under 18 U.S.C. § 3582(c)(2) (1994). We have reviewed the record and the district court's opinion and can discern no abuse of discretion. Accordingly, we affirm the court's order. See United States v. Holmes, 13 F.3d 1217, 1222 (8th Cir. 1994). 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

* We decline to consider for the first time on appeal whether Nunez's assertion that his conviction and sentence violate the precepts of Apprendi v. New Jersey, 530 U.S. 466 (2000).