

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-6902

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MICHAEL PAUL HAYMOND,

Defendant - Appellant.

Appeal from the United States District Court for the Northern District of West Virginia, at Martinsburg. John Preston Bailey, Chief District Judge. (3:05-cr-00013-JPB-3)

Submitted: February 26, 2009

Decided: March 4, 2009

Before NIEMEYER, MICHAEL, and GREGORY, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Brian Joseph Kornbrath, Federal Public Defender, Clarksburg, West Virginia, for Appellant. Paul Thomas Camilletti, Assistant United States Attorney, Martinsburg, West Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Michael Paul Haymond appeals from the district court's order granting a two-level sentence reduction and denying a further sentence reduction pursuant to 18 U.S.C. § 3582(c) (2006). We have reviewed the record and the district court's order and find no abuse of discretion. Accordingly, we affirm on the reasoning of the district court. See United States v. Haymond, No. 3:05-cr-00013-JPB-3 (N.D.W. Va., May 28, 2008). We note Haymond was not entitled to a resentencing hearing or a sentence below the amended guideline range. See United States v. Dunphy, 551 F.3d 247, 257 (4th Cir. 2009) ("When a sentence is within the guidelines applicable at the time of the original sentencing, in an 18 U.S.C. § 3582(c) resentencing hearing, a district judge is not authorized to reduce a defendant's sentence below the amended guideline range."). We deny Haymond's motion for appointment of counsel and 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