

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 11-7611**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ZACHARY LIVERMAN, a/k/a Zack,

Defendant - Appellant.

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Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Rebecca Beach Smith, Chief District Judge. (2:95-cr-00151-FBS-8)

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Submitted: April 19, 2012

Decided: April 25, 2012

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

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Affirmed by unpublished per curiam opinion.

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Zachary Liverman, Appellant Pro Se. Benjamin L. Hatch, Assistant United States Attorney, Norfolk, Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Zachary Liverman appeals the district court's order denying his 18 U.S.C. § 3582(c)(2) (2006) motion. The district court may reduce a sentence under § 3582(c)(2) "if such a reduction is consistent with applicable policy statements issued by the Sentencing Commission." 18 U.S.C. § 3582(c)(2). A reduction "is not consistent with [the Commission's] policy statement and therefore is not authorized under 18 U.S.C. § 3582(c)(2)" if the amendment "does not have the effect of lowering the defendant's applicable guideline range." USSG § 1B1.10(a)(2)(B) (2011). The district court correctly determined that it lacked authority to reduce Liverman's sentence under Amendment 750 and § 3582(c)(2), because the amendment did not have the effect of lowering his Guidelines range. Under the new Guidelines, a level thirty-six applies to cocaine base quantities of between 2.8 kilograms and less than 8.4 kilograms. See USSG § 2D1.1(c)(3) (2011).

We have reviewed the record and find no reversible error. Accordingly, we affirm the district court's order. United States v. Liverman, No. 2:95-cr-00151-FBS-8 (E.D. Va. filed Nov. 10, & entered Nov. 14, 2011). 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