

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 09-7124

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JULIAN DEMONT PACE,

Defendant - Appellant.

Appeal from the United States District Court for the Northern District of West Virginia, at Martinsburg. John Preston Bailey, Chief District Judge. (3:02-cr-00033-JPB-JES-1)

Submitted: September 10, 2009

Decided: September 16, 2009

Before KING, DUNCAN, and AGEE, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Julian Demont Pace, Appellant Pro Se. Paul Thomas Camilletti, Assistant United States Attorney, Martinsburg, West Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Julian Demont Pace appeals a district court order denying his motion for a sentence reduction under 18 U.S.C. § 3582(c) (2006). The district court found Pace was not eligible for a reduction under the recent amendments to the Sentencing Guidelines because his sentence was not based on a quantity of crack cocaine, but on his career offender status. We affirm.

We find the district did not abuse its discretion denying Pace's motion for a sentence reduction. United States v. Goines, 357 F.3d 469, 478 (4th Cir. 2004) (stating standard of review). Accordingly, we affirm the district court's order.* 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

* Insofar as it appears Pace's appeal from the district court's order was untimely, we note he signed the notice of appeal within ten days of the court's order. Because we assume the date appearing on the notice of appeal is the earliest date it could have been properly delivered to prison officials for mailing to the court, we find the appeal timely. Fed. R. App. P. 4(c); Houston v. Lack, 487 U.S. 266 (1988).