

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 09-7727**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ALPHONSO DAVIS,

Defendant - Appellant.

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Appeal from the United States District Court for the Western  
District of North Carolina, at Charlotte. Frank D. Whitney,  
District Judge. (3:95-cr-00059-FDW-1)

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Submitted: January 19, 2010

Decided: January 27, 2010

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Before NIEMEYER, KING, and DAVIS, Circuit Judges.

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Affirmed by unpublished per curiam opinion.

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Alphonso Davis, Appellant Pro Se. Amy Elizabeth Ray, Assistant  
United States Attorney, Asheville, North Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Alphonso Davis appeals the district court's order denying his 18 U.S.C. § 3582(c)(2) (2006) motion. On appeal, Davis contends that he should be resentenced under Amendment 706 of the Sentencing Guidelines because the district court incorrectly categorized him as a career offender. See U.S. Sentencing Guidelines Manual ("USSG") § 2D1.1(c) (2007 & Supp. 2008); USSG App. C Amend. 706; see also USSG § 4B1.1. We note that Davis' sentence was not determined by his status as a career offender. Rather, he was sentenced to the statutory mandatory minimum term under 21 U.S.C. § 841(b)(1)(A) (2006). Therefore, Davis is not eligible for a sentencing reduction under the amendment to the guidelines. 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