UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 17-6754

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

THOMAS DEAN, JR.,

Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at Florence. R. Bryan Harwell, District Judge. (4:09-cr-00854-RBH-4)

Submitted: October 10, 2017 Decided: October 17, 2017

Before MOTZ, SHEDD, and WYNN, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Thomas Dean, Jr., Appellant Pro Se. Robert Frank Daley, Jr., Assistant United States Attorney, Columbia, South Carolina; Carrie Fisher Sherard, Assistant United States Attorney, Greenville, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Thomas Dean, Jr. appeals the district court's order denying his second motion for a sentence reduction pursuant to 18 U.S.C. § 3582(c)(2) (2012) and Amendment 782 to the Sentencing Guidelines. "We review a district court's decision to reduce a sentence under § 3582(c)(2) for abuse of discretion and its ruling as to the scope of its legal authority under § 3582(c)(2) de novo." *United States v. Muldrow*, 844 F.3d 434, 437 (4th Cir. 2016). Because the Government did not oppose Dean's motion as successive, the district court erred in determining that it lacked authority to consider Dean's motion. *United States v. May*, 855 F.3d 271, 274 (4th Cir. 2017), *cert. denied*, No. 17-142, 2017 WL 3219499 (U.S. Oct. 2, 2017). However, we conclude that Dean is not entitled to relief because he was sentenced as a career offender, and the career offender Guideline was not impacted by Amendment 782. *See United States v. Riley*, 856 F.3d 326, 328 (4th Cir. 2017) (recognizing that we may affirm a district court's order "on any grounds apparent from the record" (internal quotation marks omitted)), *cert. denied*, No. 17-5559, 2017 WL 3480672 (U.S. Oct. 2, 2017).

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 this court and argument would not aid the decisional process.

AFFIRMED