

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 08-11645
Non-Argument Calendar

FILED U.S. COURT OF APPEALS ELEVENTH CIRCUIT APRIL 7, 2009 THOMAS K. KAHN CLERK
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D. C. Docket No. 00-00056-CR-HLM-4

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

AUTRY JAMES FOSTER,
a.k.a. Archie Foster,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of Georgia

(April 7, 2009)

Before BLACK, BARKETT and PRYOR, Circuit Judges.

PER CURIAM:

Autry James Foster appeals the denial of his motion to reduce his sentence.

18 U.S.C. § 3582(c)(2). The district court ruled that Foster was ineligible for relief under Amendment 706 because he was sentenced as a career offender. We affirm.

The district court did not err by denying Foster's motion. Foster argues that the district court was entitled to reduce his sentence because the base offense level for his underlying crack cocaine offenses has been altered by Amendment 706, but his argument is foreclosed by our decision in United States v. Moore, 541 F.3d 1323, 1330 (11th Cir. 2008), because Foster was sentenced as a career offender. Foster also argues that the district court had discretion to reduce his sentence below the amended range under United States v. Booker, 543 U.S. 220, 125 S. Ct. 738 (2005), but Booker cannot be used as an independent basis to reduce a sentence. See United States v. Jones, 548 F.3d 1366, 1369 (11th Cir. 2008).

The denial of Foster's motion for a reduced sentence is **AFFIRMED**.