

April 11, 2006

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 04-60945
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

HELEN MARIE BATEY, also known as Seall, also
known as Helen Marie Cherry,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Mississippi
USDC No. 1:00-CR-4-1-GRo

Before JONES, Chief Judge, and JOLLY and DAVIS, Circuit Judges.

PER CURIAM:*

Helen Marie Batey, federal prisoner # 05451-043, appeals the district court's denial of her motion seeking a modification in her sentence by compelling the Government to file a motion under FED. R. CRIM. P. 35(b). The district court may modify the imposed term of imprisonment under limited circumstances. 18 U.S.C. § 3582(c). Because Batey's motion did not fall under any of the provisions of 18 U.S.C. § 3582(c), it was unauthorized and without jurisdictional basis. United States v. Early, 27 F.3d

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

140, 141-42 (5th Cir. 1994). Accordingly, on that alternative basis, the district court's order is AFFIRMED.