

December 12, 2006

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 05-20885  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

BILAL TROY FARAHKHAN,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 4:96-CR-24-1  
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Before KING, WIENER, and OWEN, Circuit Judges.

PER CURIAM:\*

Bilal Troy Farahkhan, federal prisoner # 72541-079, appeals the district court's dismissal of his motion to modify his sentence, purportedly filed pursuant to 18 U.S.C. § 3582(b)(2)(B) and FED. R. CRIM. P. 35. The Government argues that the district court lacked jurisdiction to consider Farahkhan's motion to modify. As the Government notes, "§ 3582(b)(2)(B)" does not exist. A district court may modify the imposed term of imprisonment under limited circumstances. § 3582(c). Because Farahkhan's motion did not fall under any of the provisions of

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

§ 3582(c), it was unauthorized and without jurisdictional basis. See United States v. Early, 27 F.3d 140, 141-42 (5th Cir. 1994). To the extent that the district court construed the motion as an attempted successive § 2255 motion, dismissal for lack of jurisdiction was proper because Farahkhan had not received permission from this court to file a successive 28 U.S.C. § 2255 motion. See United States v. Key, 205 F.3d 773, 774 (5th Cir. 2000).

The instant appeal is without arguable merit and is therefore dismissed as frivolous. Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983); 5TH CIR. R. 42.2. Farahkhan is hereby warned that any further repetitious or frivolous filings, including those attempting to circumvent statutory restrictions on filing second or successive § 2255 motions, may result in the imposition of sanctions against him. These sanctions may include dismissal, monetary sanctions, and restrictions on his ability to file pleadings in this court and any court subject to this court's jurisdiction.

APPEAL DISMISSED; SANCTION WARNING ISSUED.