

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

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No. 13-20461  
Summary Calendar

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United States Court of Appeals  
Fifth Circuit

**FILED**

May 27, 2014

Lyle W. Cayce  
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

BOBBY DAN TEETS, also known as Bull,

Defendant-Appellant

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 4:10-CR-644-2

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Before REAVLEY, JONES, and PRADO, Circuit Judges.

PER CURIAM:\*

Bobby Dan Teets appeals the denial of the Government's Federal Rule of Criminal Procedure 35(b) motion for a sentence reduction based on his substantial assistance. We pretermitted the question of whether the appeal waiver bars the instant appeal because Teets's challenge to the district court's ruling fails. *See United States v. Story*, 439 F.3d 226, 230-31 (5th Cir. 2006).

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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Teets contends that the district court denied the Government's motion pursuant to Rule 35(b)(2)(B) or (C) and argues that the district court erred by requiring the Government to prove or allege when the information he provided became useful. Teets's argument rests on a faulty premise. The Government filed the motion within one year of the oral pronouncement of sentence. Therefore, the only applicable provision of Rule 35(b) was subsection (1). *See* FED. R. CRIM. P. 35(b)(1).

The Government's U.S.S.G. § 5K1.1 and Rule 35(b) motions relied on the same substantial assistance. The district court had already taken this substantial assistance into account when it granted the Government's § 5K1.1 motion. Thus, the district court appropriately required the Government to show that Teets had offered additional substantial assistance to warrant a further sentence reduction. The Government failed to do so.

The district court's judgment is **AFFIRMED**.