

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

No. 18-20101
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

November 6, 2018

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

KEVIN JOSEPH GOBERT,

Defendant-Appellant,

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:09-CR-85-1

Before HIGGINBOTHAM, ELROD, and DUNCAN, Circuit Judges.

PER CURIAM:*

Kevin Joseph Gobert, federal prisoner # 43554-279, appeals the denial of his motion to reduce his sentence under 18 U.S.C. § 3582(c)(2). The district court found that Gobert was not eligible for a sentence reduction under Amendment 782 to the Sentencing Guidelines because the amount of cocaine for which Gobert had been held responsible resulted in no change to the amended Drug Quantity Table in U.S.S.G. § 2D1.1(c). We review the district

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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court's decision whether to reduce a sentence under § 3582(c)(2) for an abuse of discretion. *United States v. Henderson*, 636 F.3d 713, 717 (5th Cir. 2011).

Because Gobert was held responsible for more than 800 kilograms of cocaine, the district court correctly found that Amendment 782 did not reduce Gobert's base offense level or his guidelines sentencing range. *See Dillon v. United States*, 560 U.S. 817, 827 (2010). Consequently, because Amendment 782 did "not have the effect of lowering [Gobert's] applicable guideline range," he was ineligible for a reduction under § 3582(c)(2). U.S.S.G. § 1B1.10(a)(2)(B); *see also United States v. Morgan*, 866 F.3d 674, 677 (5th Cir. 2017). Contrary to Gobert's arguments, the "district court is not required to state findings of fact and conclusions of law in denying a § 3582(c)(2) motion," *United States v. Berry*, 869 F.3d 358, 359 (5th Cir. 2017), and, because it found Gobert was not eligible for the reduction, the district court was not obligated to consider the 18 U.S.C. § 3553(a) factors when ruling on the motion, *see Morgan*, 866 F.3d at 675-76.

AFFIRMED.