

UNITED STATES COURT OF APPEALS
TENTH CIRCUIT

May 9, 2006

Elisabeth A. Shumaker
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

GREGORY D. COSBY,

Defendant - Appellant.

No. 05-1550
(D. Ct. No. 05-CR-491-WYD)
(D. Colo.)

ORDER AND JUDGMENT*

Before **TACHA**, Chief Circuit Judge, **HARTZ**, and **TYMKOVICH**, Circuit Judges.

After examining the briefs and the appellate record, this three-judge panel has determined unanimously that oral argument would not be of material assistance in the determination of this appeal. *See* Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument.

This appeal is from an order of the District Court denying Defendant-Appellant Gregory Cosby's motion to modify his sentence or, in the alternative, to be placed in half-

*This order is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. This court generally disfavors the citation of orders; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

way house or a Community Corrections Center. Mr. Cobsy appeals pro se, seeking to have this Court order the District Court to hold a hearing on issues related to his placement within the Bureau of Prisons. Neither this Court nor the District Court, however, have power to dictate placements to the Bureau of Prisons. Congress has given the Bureau of Prisons broad authority to determine the place of a prisoner's confinement. *See* 18 U.S.C. 3621(b). Moreover, Mr. Cosby has not alleged any constitutional violation or other wrongdoing by the Bureau of Prisons that could be construed as actionable pursuant to 28 U.S.C. § 2255. Therefore, we have no jurisdiction to consider this claim on appeal. Furthermore, to the extent Mr. Cosby argues that the District Court erred in failing to modify his sentence, a district court has no jurisdiction to modify a sentence once it has been imposed, except in very narrow circumstances not present here. *See United States v. Price*, 438 F.3d 1005, 1007 (10th Cir. 2006); 18 U.S.C. 3582(c); Fed. R. Crim. P. 35. Accordingly, we affirm the order of the District Court denying Mr. Cosby's pro se appeal, and dismiss for lack of jurisdiction.

ENTERED FOR THE COURT,

Deanell Reece Tacha
Chief Circuit Judge