

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

United States Court of Appeals  
Fifth Circuit

**FILED**

December 10, 2008

Charles R. Fulbruge III  
Clerk

---

No. 08-10343  
Conference Calendar

---

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

LEROY JOSEPH DOUCETTE

Defendant-Appellant

---

Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 4:00-CR-178-2

---

Before DAVIS, WIENER, and PRADO, Circuit Judges.

PER CURIAM:\*

Leroy Joseph Doucette, federal prisoner # 25776-177, pleaded guilty to possession with intent to distribute more than 50 grams of crack cocaine in violation of 21 U.S.C. § 841. He was held accountable for 149.8 grams of crack cocaine and 2.64 grams of marijuana. Under the November 1, 2000, edition of the Sentencing Guidelines, Doucette had a base offense level (BOL) of 32, and he was ultimately subject to a guidelines imprisonment range of 135 to 168 months. In February 2001, Doucette was sentenced to 135 months of imprisonment.

---

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

In March 2008, Doucette filed a motion to modify his sentence under 18 U.S.C. § 3582(c)(2), arguing that he was entitled to have his sentence reduced based on Amendment 706 to the Sentencing Guidelines, which applied retroactively to offenses involving crack cocaine. The district court found that Doucette did not meet the criteria for a reduction under § 3582(c) and U.S.S.G. § 1B1.10 because Doucette would not have had a lower BOL had Amendment 706 been in effect at the time of his sentencing. Accordingly, the district court denied Doucette's § 3582(c)(2) motion. Doucette filed a motion for reconsideration, which the district court denied. On appeal, Doucette reiterates his contention that under Amendment 706 he would have received a lower BOL and, thus, a lower guidelines sentencing range.

On May 21, 2008, after Doucette filed his appeal, the district court sua sponte reconsidered its denial of Doucette's motion. In light of Amendment 715 to the Sentencing Guidelines, the district court granted Doucette relief and reduced his imprisonment term to the statutorily mandated minimum of 120 months. As the district court itself has now granted the relief Doucette sought from this court, Doucette's appeal is moot. See *United States v. Clark*, 193 F.3d 845, 847-48 (5th Cir. 1999).

APPEAL DISMISSED.