

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

United States Court of Appeals
Fifth Circuit

FILED

January 21, 2010

Charles R. Fulbruge III
Clerk

No. 08-20440

Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff - Appellee

v.

ALFRED LEWIS,

Defendant - Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:96-CR-116-6

Before WIENER, DeMOSS, and SOUTHWICK, Circuit Judges.

PER CURIAM:*

Alfred Lewis, federal prisoner #72777-079, appeals the district court's denial of his 18 U.S.C. § 3582(c)(2) motion to reduce his concurrent 262-month sentences for conspiring to possess with intent to distribute a mixture and substance containing cocaine base and distribution of cocaine base. Lewis challenges the propriety of his sentencing as a career offender, and he also

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

argues that § 3582(c)(2) is applicable to his sentences based upon the retroactive amendments to the crack cocaine guidelines.

Lewis may not use a § 3582(c)(2) motion to challenge the appropriateness of the district court's application of a career offender enhancement in its calculation of his original sentences. *See United States v. Whitebird*, 55 F.3d 1007, 1011 (5th Cir. 1995). Further, the district court did not err in denying relief because “[t]he crack cocaine guideline amendments do not apply to prisoners sentenced as career offenders.” *United States v. Anderson*, — F.3d —, No. 08-41314, 2009 WL 4895261, *2 (5th Cir. Dec. 21, 2009).

AFFIRMED.