

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

United States Court of Appeals
Fifth Circuit

FILED

May 26, 2010

Lyle W. Cayce
Clerk

No. 08-20499

Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

WILLIE DEE SCOTT, JR.,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:98-CR-447-2

Before HIGGINBOTHAM, CLEMENT and SOUTHWICK, Circuit Judges.

PER CURIAM:*

Willie Dee Scott, Jr., appeals the district court's denial of his 18 U.S.C. § 3582(c)(2) motion for reduction of sentence. Scott's Section 3852(c)(2) motion asserted that he was eligible for a sentence reduction based on Amendment 706, which modified the sentencing guideline ranges applicable to crack cocaine offenses by reducing the disparity between crack cocaine and powder cocaine sentences.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Scott's calculated sentencing guideline range was 210 to 262 months of imprisonment. Scott, however, was subject to 18 U.S.C. § 841's statutory minimum sentence of 240 months. As a result, the calculated sentencing guideline range of 210 to 262 months was displaced with a sentencing guideline range of 240 to 262 months of imprisonment.

Under this court's decision in *United States v. Carter*, 595 F.3d 575, 577-81 (5th Cir. 2010), because Scott was subject to a statutory minimum sentence, which has not been amended since Scott's sentencing, Scott was ineligible for a sentence reduction under Section 3582(c)(2) and U.S.S.G. § 1B1.10, notwithstanding any departure below the statutory minimum sentence. *Id.* Accordingly, the judgment of the district court is AFFIRMED.