

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

United States Court of Appeals
Fifth Circuit

FILED

February 12, 2010

No. 08-30467
Conference Calendar

Charles R. Fulbruge III
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

KARL W LANDRY,

Defendant-Appellant

Appeal from the United States District Court
for the Eastern District of Louisiana
USDC No. 2:03-CR-197-ALL

Before GARZA, DENNIS, and ELROD, Circuit Judges.

PER CURIAM:*

Karl W. Landry, federal prisoner # 28471-034, appeals the denial of his motion to reduce his sentence pursuant to 18 U.S.C. § 3582(c), in which he argued that his sentence should be reduced based on the amendment to the Guideline addressing crack cocaine. The district court summarily denied the motion without providing any reasons.

Landry argues that the district court was required as a matter of procedural due process and by 18 U.S.C. § 3553(c) to provide some explanation

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

for denying the motion and, in particular, reasons why it had rejected such mitigating factors as Landry's accomplishments in prison.

In his motion for reduction of sentence, Landry listed the § 3553(a) factors that the district court should consider and pointed out how they applied to his circumstances. Landry also advised the district court of the drug treatment programs that he participated in and of his vocational advancements. Thus, the record reflects that the district court had those arguments before it when it made its determination, and this court can assume that the court considered the relevant § 3553(a) factors prior to denying Landry's motion for a reduction. *See United States v. Evans*, 587 F.3d 667, 673-74 (5th Cir. 2009). The district court's failure to provide an explanation for denying Landry's § 3582(c) motion to reduce did not constitute an abuse of discretion. *Id.*

The sentence is AFFIRMED.