

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

United States Court of Appeals
Fifth Circuit

F I L E D

April 20, 2010

No. 08-30607
Conference Calendar

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

GORDON COLBURN, JR, also known as G, also known as G-Dog, also known as Gordon Colburn,

Defendant-Appellant

Appeal from the United States District Court
for the Eastern District of Louisiana
USDC No. 2:06-CR-160-1

Before SMITH, PRADO, and HAYNES, Circuit Judges.

PER CURIAM:*

Gordon Colburn, Jr., federal prisoner # 29812-034, appeals the district court's denial of his 18 U.S.C. § 3582(c)(2) motion to reduce his sentence based on amendments to the crack cocaine Guideline. He argues that the district court erred when it denied his motion solely on the basis that the new guidelines range overlapped with his original sentence and despite his exemplary post-sentencing conduct.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

A proceeding under § 3582(c)(2) is not a full resentencing. *United States v. Evans*, 587 F.3d 667, 671 (5th Cir. 2009), *petition for cert. filed* (Jan. 28, 2010) (No. 09-8939). Consequently, the bifurcated reasonableness review standard afforded sentencing decisions is inapplicable in the § 3582(c)(2) context. *Id.* at 672. Rather, we review the district court's determination of whether to reduce a sentence for an abuse of discretion. *Id.* Colburn's motion to reduce his sentence relied on the factors in 18 U.S.C. § 3553(a), and the district court's decision indicates that it considered the amended guidelines range but determined that no reduction in sentence was warranted. Where, as here, the record shows that the district court gave due consideration to the motion as a whole and implicitly considered the factors in § 3553(a), there is no abuse of discretion. *See United States v. Whitebird*, 55 F.3d 1007, 1010 (5th Cir. 1995); *see also Evans*, 587 F.3d at 674.

AFFIRMED.