

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

United States Court of Appeals
Fifth Circuit

FILED

October 20, 2009

No. 08-31215
Conference Calendar

Charles R. Fulbruge III
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

JEFFREY JEROME LIGHTEN,

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 3:98-CR-30010-13

Before WIENER, BENAVIDES, and STEWART, Circuit Judges.

PER CURIAM:*

Jeffrey Jerome Lighten, federal prisoner # 04572-078, was convicted in 1999 of possession with intent to distribute 48 grams or more of cocaine base and was sentenced to a 292-month term of imprisonment. Lighten appeals the sentence imposed following the district court's granting of his motion for reduction of sentence pursuant to 18 U.S.C. § 3582(c)(2).

Lighten challenges the district court's determination that it lacked authority under § 3582(c)(2) to reduce the sentence below the amended

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

guidelines range. Lighten argues that the holding in *United States v. Booker*, 543 U.S. 220 (2005), applies to § 3582(c)(2) proceedings, that § 3582(c)(2)'s requirement that the reduction be consistent with applicable Guideline policy statements is not a jurisdictional impediment to a sentence below the amended guidelines range, and that the Sentencing Commission, which has the power to specify the circumstances and amounts of sentence reductions, cannot ignore the Supreme Court's holdings in *Booker* or in *Kimbrough v. United States*, 128 S. Ct. 558 (2007), regarding the weight courts should give the 18 U.S.C. § 3553(a) factors when they impose sentences.

Lighten's arguments are foreclosed by our recent decision in *United States v. Dublin*, 572 F.3d 235, 236-39 (5th Cir. 2009), *petition for cert. filed* (Sept. 21, 2009) (No. 09-6657). The judgment of the district court is AFFIRMED.