

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

United States Court of Appeals
Fifth Circuit

FILED

June 3, 2010

Lyle W. Cayce
Clerk

No. 08-41090

Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

NATHANIEL HOWARD THOMAS,

Defendant-Appellant

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 4:98-CR-14-27

Before DAVIS, SMITH and DENNIS, Circuit Judges.

PER CURIAM:*

Nathaniel Howard Thomas, federal prisoner # 07052-078, appeals the district court's judgment of October 6, 2008, denying his motion to reduce his sentence pursuant to 18 U.S.C. § 3582(c)(2) based on U.S.S.G. App. C, Amendment 591 (Nov. 2000). Thomas argues that, in light of *United States v. Booker*, 543 U.S. 220 (2005), the district court was authorized to consider the reduced offense level under the amendment and the 18 U.S.C. § 3553(a) factors in considering the motion. This issue is foreclosed by this court's decisions in

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

United States v. Dublin, 572 F.3d 235, 236-39 (5th Cir.), *cert. denied*, 130 S. Ct. 517 (2009), and *United States v. Evans*, 587 F. 3d 667, 670-71 (5th Cir. 2009), *petition for cert. filed* (Jan. 28, 2010) (No. 09-8939).

On appeal, Thomas does not address the denial of relief based on the specific provisions of Amendment 591. When an appellant fails to identify any error in the district court's analysis, it is the same as if the appellant had not appealed that issue. *Brinkmann v. Dallas County Sheriff Abner*, 813 F.2d 744, 748 (5th Cir. 1987). Arguments must be briefed in order to be preserved. *Yohey v. Collins*, 985 F.2d 222, 224-25 (5th Cir. 1983). Any claim based on Amendment 591 must be deemed abandoned. *See Brinkmann*, 813 F.2d at 748.

The judgment of the district court is AFFIRMED. The Government's motions are DENIED.