

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

United States Court of Appeals
Fifth Circuit

F I L E D

March 16, 2010

No. 08-50987
Summary Calendar

Charles R. Fulbruge III
Clerk

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

ROBERT STEEN

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Texas
USDC No. 5:02-CR-180-1

Before JONES, Chief Judge, and DAVIS and WIENER, Circuit Judges.

PER CURIAM:*

Robert Steen appeals the district court's denial of his 18 U.S.C. § 3582(c)(2) motion for a reduction of sentence based on the United States Sentencing Commission's retroactive amendment to the base offense levels for crack cocaine offenses. Steen pleaded guilty in 2002 to conspiracy to manufacture 50 grams or more of crack cocaine. At that time, the district adopted the calculation of the presentence report assigning Steen a guidelines

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

range of 262 to 327 months of imprisonment and sentenced him to 262 months in prison.

Steen argues that the district court abused its discretion in refusing to reduce his sentence to the low end of a recalculated guidelines range of 210 to 262 months based on the crack amendments. The district court found that Steen was “eligible for a reduction in sentence” under § 3582(c)(2) but also found “that the history and characteristics of the Defendant, the nature of the Defendant’s criminal history and post-sentencing conduct, which includes a post-sentencing conviction for inflicting serious bodily injury on a child, and three disciplinary violations for assaultive conduct since the Defendant has been incarcerated, demonstrate a history of violent assaultive conduct.” The district court did not abuse its discretion in denying Steen’s § 3582(c)(2) motion. *See United States v. Evans*, 587 F.3d 667, 672 (5th Cir. 2009).

AFFIRMED.