

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

United States Court of Appeals
Fifth Circuit

FILED

June 22, 2010

Lyle W. Cayce
Clerk

No. 09-30063

Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

DERRICK DAVIS, also known as D,

Defendant-Appellant

Appeal from the United States District Court
for the Eastern District of Louisiana
USDC No. 2:01-CR-81-2

Before JOLLY, STEWART, and OWEN, Circuit Judges.

PER CURIAM:*

Derrick Davis, federal prisoner # 27548-034, appeals the district court's ruling that he was ineligible for a reduction in sentence pursuant to 18 U.S.C. § 3582(c)(2) based on the amendments to the crack cocaine Guideline. Although Davis argues that he was eligible for such a reduction, when a defendant such as Davis is "subject to a statutory minimum sentence above the upper end of his guideline range, . . . 18 U.S.C. § 3582(c)(2) provides no authority to the district

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

court to later modify the sentence based on amendments to the guideline range.”
United States v. Carter, 595 F.3d 575, 581 (5th Cir. 2010).

AFFIRMED.