

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

United States Court of Appeals
Fifth Circuit

FILED

March 22, 2010

No. 09-30508
Summary Calendar

Charles R. Fulbruge III
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

DAVID JEROME FRANK,

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 2:03-CR-20067-1

Before BENAVIDES, PRADO, and SOUTHWICK, Circuit Judges.

PER CURIAM:*

David Jerome Frank appeals the district court's order denying his motion to reduce his sentence under 18 U.S.C. § 3582(c)(2) in light of the amendment to the crack cocaine guideline. He asserts that he is entitled to a sentence reduction pursuant to U.S.S.G. § 1B1.10 and the sentencing factors under 18 U.S.C. § 3553(a) because he was convicted of conspiracy to distribute cocaine base. He contends that his status as a career offender should not preclude the reduction of his sentence. He also asserts that he is eligible for a sentence

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

reduction in light of *United States v. Booker*, 543 U.S. 220 (2005). After Frank's brief was filed in this court, we issued our decision in *United States v. Anderson*, 591 F.3d 789 (5th Cir. 2009). The issues raised by Frank are foreclosed by *Anderson*, 591 F.3d at 789-91.

AFFIRMED.