

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

United States Court of Appeals
Fifth Circuit

FILED

October 26, 2010

Lyle W. Cayce
Clerk

No. 10-30158
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

ANDREW D. KELLY,

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 5:03-CR-50103-1

Before SMITH, DENNIS, and CLEMENT, Circuit Judges.

PER CURIAM:*

Andrew D. Kelly, federal prisoner # 11952-035, appeals the district court's order granting his motion to reduce his sentence pursuant to 18 U.S.C. § 3582(c)(2) based on the amendments to the Guideline governing cocaine base. Although the district court reduced Kelly's sentence from 151 months to 121 months, the bottom of the newly applicable guidelines range, Kelly argues that, pursuant to *United States v. Booker*, 543 U.S. 220 (2005), the district court had the discretion to grant a greater reduction. He also avers in that regard that 28

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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U.S.C. § 994(u) does not grant the Sentencing Commission authority to bind the district court's discretion in § 3582(c)(2) cases.

We review a district court's decision whether to reduce a sentence under § 3582(c)(2) for an abuse of discretion, and its interpretation of the Sentencing Guidelines is reviewed de novo. *United States v. Dublin*, 572 F.3d 235, 237-39 (5th Cir.), *cert. denied*, 130 S. Ct. 517 (2009). *Booker* is inapplicable to sentence reductions under § 3582(c)(2), and a district court may not reduce a sentence below the minimum provided in the amended guidelines range. *Id.* at 238; *see also Dillon v. United States*, 130 S. Ct. 2683, 2691-94 (2010) (holding that *Booker* does not apply to § 3582(c)(2) proceedings). To the extent that Kelly complains that the district court did not provide reasons for its decision, the district court need not do so. *See United States v. Evans*, 587 F.3d 667, 674 (5th Cir. 2009), *cert. denied*, 130 S. Ct. 3462 (2010). Accordingly, the judgment of the district court is AFFIRMED.