

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

October 26, 2010

No. 10-30310
Conference Calendar

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

JOHNNY CLINTON,

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 5:98-CR-50036-10

Before SMITH, DENNIS, and CLEMENT, Circuit Judges.

PER CURIAM:*

Appealing the judgment in a criminal case, Johnny Clinton raises arguments that he concedes are foreclosed by *United States v. Dublin*, 572 F.3d 235, 236-39 (5th Cir.), *cert. denied*, 130 S. Ct. 517 (2009), which rejected the argument that *United States v. Booker*, 543 U.S. 220 (2005), applies in 18 U.S.C. § 3582(c)(2) proceedings and held that a district court may not reduce a sentence below the minimum provided in the amended Guidelines. After Clinton filed his

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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brief in this court, the Supreme Court held that *Booker* does not apply to § 3582(c)(2) proceedings. *Dillon v. United States*, 130 S. Ct. 2683, 2692 (2010).

The Government's motion for summary affirmance is GRANTED, its alternative motion for an extension of time to file a brief is DENIED, and the judgment of the district court is AFFIRMED.