

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

June 10, 2011

Lyle W. Cayce
Clerk

No. 10-30724

Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JIMMY NIXON,

Defendant-Appellant.

Appeal from the United States District Court
for the Middle District of Louisiana
USDC No. 3:96-CR-105-1

Before DAVIS, SMITH, and SOUTHWICK, Circuit Judges.

PER CURIAM:*

Jimmy Nixon, federal prisoner # 12863-116, moves to proceed *in forma pauperis* ("IFP") in this appeal of the denial of his motion for a sentencing reduc-

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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tion under 18 U.S.C. § 3582(c)(2), which authorizes a reduction “in the case of a defendant who has been sentenced to a term of imprisonment based on a sentencing range that has subsequently been lowered by the Sentencing Commission.” § 3582(c)(2); *Dillon v. United States*, 130 S. Ct. 2683, 2691 (2010). Nixon has not shown, in the district court or on appeal, that he is eligible for a § 3582(c)(2) reduction based on an amendment to the Sentencing Guidelines because of his assertion that his military service was not taken into account at sentencing.

Nixon has not shown that the denial of his motion presents a nonfrivolous issue for appeal. Accordingly, his motion to proceed IFP is denied, and the appeal is dismissed. 5TH CIR. R. 42.2.