

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

United States Court of Appeals
Fifth Circuit

F I L E D

October 19, 2010

No. 10-40083
Summary Calendar

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

FRED FLORES, III,

Defendant-Appellant

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 4:05-CR-96-1

Before WIENER, PRADO, and OWEN, Circuit Judges.

PER CURIAM:*

Defendant-Appellant Fred Flores, III, federal prisoner # 12212-078, appeals the district court's denial of his motion under 18 U.S.C. § 3582(c)(2) for a sentence reduction based on the recent amendments to the crack cocaine provisions of the Sentencing Guidelines. The government has filed a motion for summary affirmance of the district court's judgment or, in the alternative, for an extension of time to file a brief on the merits. Flores's sentencing range was not determined under the crack cocaine provisions of the Sentencing Guidelines.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Accordingly, he is not eligible for a reduced sentence. *See* § 3582(c); U.S.S.G. § 1B1.10(a)(2) & cmt. (n.1(A)). The judgment of the district court is AFFIRMED. The government's motion for summary affirmance is GRANTED, and its alternative motion for an extension of time is DENIED as unnecessary.