

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

No. 15-40464
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

February 5, 2016

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

MARIA SANJUAN SALDIVAR,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 2:03-CR-182

Before DAVIS, JONES and HAYNES, Circuit Judges.

PER CURIAM:*

Maria Sanjuan Saldivar (Saldivar), federal prisoner # 33611-079, seeks leave to proceed in forma pauperis (IFP) on appeal from the district court's denial of her 18 U.S.C. § 3582(c)(2) motion to reduce her sentence based on retroactive Amendment 782 to U.S.S.G. § 2D1.1. By moving to proceed IFP, Saldivar is challenging the district court's certification that her appeal was not

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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taken in good faith because it is frivolous. *See Baugh v. Taylor*, 117 F.3d 197, 202 (5th Cir. 1997).

Saldivar contends that, despite her career criminal status, she is entitled to a sentence reduction under Amendment 782 based on the same 18 U.S.C. § 3553(a) factors that supported the district court's imposition of a downward variance. We review the district court's denial of a § 3582(c)(2) motion for an abuse of discretion. *United States v. Henderson*, 636 F.3d 713, 717 (5th Cir. 2011).

The record reflects that Saldivar was not eligible for a § 3582(c)(2) sentence reduction under Amendment 782 because, as a career offender pursuant to U.S.S.G. § 4B1.1, she was not sentenced based on a guidelines range that was subsequently lowered by the Sentencing Commission. *See United States v. Anderson*, 591 F.3d 789, 790-91 (5th Cir. 2009); § 3582(c)(2). Therefore, the district court did not abuse its discretion by denying the § 3582(c)(2) motion. *See Anderson*, 591 F.3d at 791.

This appeal does not present a nonfrivolous issue. *See Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983). Accordingly, Saldivar's IFP motion is DENIED, and the appeal is DISMISSED as frivolous. *See Baugh*, 117 F.3d at 202 & n.24; 5th Cir. R. 42.2.