

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

No. 15-50417
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

December 3, 2015

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

KALUB DOYLE, JR.,

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Texas
USDC No. 6:95-CR-104

Before HIGGINBOTHAM, SMITH, and OWEN, Circuit Judges.

PER CURIAM:*

Kalub Doyle, Jr., federal prisoner # 56795-079, seeks leave to proceed in forma pauperis (IFP) on appeal from the district court's denial of his 18 U.S.C. § 3582(c)(2) motion seeking modification of his sentence for possession with the intent to distribute 50 grams or more of crack cocaine based on Amendment 782 to the Sentencing Guidelines. By moving to proceed IFP, Doyle is challenging the district court's certification decision that his 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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).

Doyle argues that the district court abused its discretion in denying his motion for a reduction of sentence. He contends that the district court did not meaningfully review his motion and considered only the facts of the case and his criminal history. Doyle also asserts that the court did not consider his eligibility for the reduction under Amendment 782. We review for abuse of discretion a district court's decision whether to reduce a sentence pursuant to 18 U.S.C. § 3582(c)(2). *United States v. Evans*, 587 F.3d 667, 672 (5th Cir. 2009).

In its order denying relief, the district court recognized that Doyle was eligible for a sentence reduction. *See Dillon v. United States*, 560 U.S. 817, 826-27 (2010). However, the district court denied Doyle's motion as a matter of discretion, referring specifically to the 18 U.S.C. § 3553(a) sentencing factors of the nature and circumstances of the offense, the need to promote respect for the law, and the need to provide adequate deterrence. The court also referenced Doyle's criminal history in denying the motion. Doyle has not shown that the district court abused its discretion by denying him a sentence reduction. *See United States v. Whitebird*, 55 F.3d 1007, 1010 (5th Cir. 1995).

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