

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

No. 16-41340
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

September 28, 2017

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff–Appellee,

v.

ESNEIDER HIDROBO,

Defendant–Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 2:10-CR-595-1

Before JOLLY, OWEN, and HAYNES, Circuit Judges.

PER CURIAM:*

Esneider Hidrobo, federal prisoner # 49387-019, appeals the district court's denial of his motion for reconsideration of the denial of his 18 U.S.C. § 3582(c)(2) motion. In that motion, he sought a reduction of his 196-month sentence for conspiracy to possess with intent to distribute more than five kilograms of cocaine in accordance with Amendment 782 to the Sentencing Guidelines. We review the denial of a motion for a sentence reduction under

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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§ 3582(c)(2) for an abuse of discretion. *United States v. Henderson*, 636 F.3d 713, 717 (5th Cir. 2011) (per curiam).

On appeal, Hidrobo maintains that he was eligible for a reduction under Amendment 782. The district court explicitly acknowledged his eligibility for relief. *See Dillon v. United States*, 560 U.S. 817, 827 (2010). To the extent that Hidrobo may be arguing that the district court was therefore obliged to reduce his sentence, he is incorrect. *See United States v. Evans*, 587 F.3d 667, 673 & n.9 (5th Cir. 2009).

The record shows that the district court gave due consideration to the 18 U.S.C. § 3553(a) factors, including the nature of the underlying offense and the need to protect the public. *See U.S. SENTENCING GUIDELINES MANUAL* § 1B1.10 cmt. n.1(B)(i)-(ii) (U.S. SENTENCING COMM'N 2010). Although Hidrobo notes that, as an illegal alien, he is not eligible for various Bureau of Prison programs, he has not demonstrated that the district court abused its discretion in its denial of relief. *See Henderson*, 636 F.3d at 717; *Evans*, 587 F.3d at 673. Accordingly, the judgment of the district court is AFFIRMED. Hidrobo's motion for appointment of counsel is DENIED. *See United States v. Whitebird*, 55 F.3d 1007, 1011 (5th Cir. 1995).