

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

No. 16-50139
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

July 11, 2017

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

FELICIANO ALBITER-MIRANDA,

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Texas
USDC No. 1:06-CR-21-2

Before PRADO, ELROD, and GRAVES, Circuit Judges.

PER CURIAM:*

Feliciano Albiter-Miranda, federal prisoner # 57748-180, moves for leave to proceed in forma pauperis (IFP) on appeal. Albiter-Miranda pleaded guilty to one count of conspiracy to possess with the intent to distribute at least 500 grams of a mixture containing methamphetamine and one count of possession of a firearm in furtherance of a drug trafficking crime. He seeks to challenge

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

No. 16-50139

the denial of his 18 U.S.C. § 3582(c)(2) motion in which he sought a sentence reduction pursuant to Amendment 782 to the Sentencing Guidelines.

The district court did not abuse its discretion in denying Albiter-Miranda's § 3582(c)(2) motion. *See United States v. Henderson*, 636 F.3d 713, 717 (5th Cir. 2011); *United States v. Contreras*, 820 F.3d 773, 774-75 (5th Cir. 2016). The appeal is not taken in good faith because it lacks arguable merit and is frivolous. *See Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983). Albiter-Miranda's motion for leave to proceed IFP is denied.

The facts surrounding the IFP decision are inextricably intertwined with the merits of the appeal. *See Baugh v. Taylor*, 117 F.3d 197, 202 & n.24 (5th Cir. 1997). The appeal presents no nonfrivolous issues and is dismissed as frivolous. *See 5TH CIR. R. 42.2*.

IFP DENIED; APPEAL DISMISSED.