

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

No. 16-50750
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

August 3, 2017

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

JOSE LEON GONZALEZ-LONGORIA, also known as Alfred Martinez, also known as Juan Vela,

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Texas
USDC No. 5:92-CR-65-1

Before DENNIS, OWEN, and SOUTHWICK, Circuit Judges.

PER CURIAM:*

Jose Leon Gonzalez-Longoria, federal prisoner # 59761-079, moves for leave to proceed in forma pauperis (IFP) on appeal. He seeks to challenge the denial of his 18 U.S.C. § 3582(c)(2) motion in which he sought a sentence reduction pursuant to Amendment 782 to U.S.S.G. § 2D1.1. We construe Gonzalez-Longoria's motion to proceed IFP as a challenge to the court's

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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certification that his appeal was not taken in good faith. *See Baugh v. Taylor*, 117 F.3d 197, 202 (5th Cir. 1997). Our inquiry into his good faith “is limited to whether the appeal involves legal points arguable on their merits (and therefore not frivolous).” *Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983) (internal quotation marks and citation omitted).

The district court did not abuse its discretion in denying Gonzalez-Longoria’s § 3582(c)(2) motion. *See United States v. Henderson*, 636 F.3d 713, 717 (5th Cir. 2011). Contrary to Gonzalez-Longoria’s assertion, Amendment 782 did not lower his base offense level because his offense involved the equivalent of 200,000 kilograms of marijuana.

Because the appeal lacks arguable merit and is frivolous, Gonzalez-Longoria’s motion for leave to proceed IFP on appeal is DENIED. *See Howard*, 707 F.2d at 220. Because the merits of Gonzalez-Longoria’s appeal are so intertwined with the certification decision as to constitute one issue, his appeal is DISMISSED as frivolous. *See Baugh*, 117 F.3d at 202 & n. 24; 5TH CIR. R. 42.2.