

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

February 27, 2023

Lyle W. Cayce
Clerk

No. 22-40586
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

AURELIO MENDEZ,

Defendant—Appellant.

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 4:98-CR-47-2

Before SMITH, WIENER, and ELROD, *Circuit Judges*.

PER CURIAM:*

Aurelio Mendez, federal prisoner # 07089-078, is serving five concurrent sentences of life imprisonment, which were imposed following his convictions of conspiracy to distribute heroin (one count) and distribution of heroin (four counts). In the instant matter, Mendez has appealed from the denial of his pro se motion for nunc pro tunc relief and the denial of his

* This opinion is not designated for publication. See 5TH CIR. R. 47.5.

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motion for reconsideration. To the extent that Mendez asserts error in the district court's denial of his motion for a reduction in his sentence, he cannot obtain relief herein because the previously issued order denying the motion for a reduction in sentence is not before the court in this matter. *See Admiral Ins. Co. v. Ford*, 607 F.3d 420, 422 n.2 (5th Cir. 2010).

Mendez argues that the district court's order denying his nunc pro tunc motion is insufficient to allow for meaningful appellate review. He also contends that the district court erred in denying his motion for reconsideration.

Nunc pro tunc orders are used for the correction of clerical errors or omissions. *Wight v. Nicholson*, 134 U.S. 136, 144 (1890). Because Mendez did not raise such a claim, he could not obtain relief by filing a motion for a nunc pro tunc order. *See United States v. Steen*, 55 F.3d 1022, 1026 n.3 (5th Cir. 1995); FED. R. CRIM. P. 36. In effect, the instant appeal has been taken from the denial of a "meaningless, unauthorized motion." *United States v. Early*, 27 F.3d 140, 142 (5th Cir. 1994). Under the circumstances, the district court was not required to provide a detailed explanation for its denial of Mendez's motions. *See United States v. Perez*, 27 F.4th 1101, 1103 (5th Cir. 2022).

As the foregoing shows, Mendez's appeal is without arguable merit and is therefore frivolous. *See Howard v. King*, 707 F.2d 215, 219-20 (5th Cir.1983). Accordingly, the appeal is DISMISSED. *See 5TH CIR. R. 42.2.* Mendez's motion for judicial notice is DENIED.