

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 01-10277  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

BERNARD GORSKI WRIGHT,  
also known as Bernard Wright,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 3:98-CR-37-1-G  
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September 7, 2001

Before JONES, SMITH, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:\*

Bernard Gorski Wright, federal prisoner # 31346-077, appeals the district court's denial of his motion, styled as a 18 U.S.C. § 3582(c) motion, arguing that the Government breached his plea agreement by failing to move at sentencing for a downward departure, pursuant to U.S.S.G. § 5K1.1, after he provided it with substantial assistance. The Government has moved to dismiss the appeal on the ground that the motion being appealed was

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

actually a successive 28 U.S.C. § 2255 motion filed without prior authorization from this court.

The Government's motion is well-taken and is GRANTED. Section 3582(c) authorizes a court to modify a federal prisoner's sentence based upon certain factors not applicable in the instant case. See 18 U.S.C. § 3582(c). As the Government argues, the motion was really a successive § 2255 motion. See Tolliver v. Dobre, 211 F.3d 876, 877 (5th Cir. 2000); see also 28 U.S.C. §§ 2244(b) and 2255; United States v. Rich, 141 F.3d 550, 551 (5th Cir. 1998). Because Wright neither requested nor received such authorization prior to filing the instant motion, the district court lacked jurisdiction to consider it. See 28 U.S.C. §§ 2244(b) and 2255; United States v. Key, 205 F.3d 773, 774 (5th Cir. 2000); see also Hooker v. Sivley, 187 F.3d 680, 681-82 (5th Cir. 1999). Consequently, this court lacks jurisdiction to review the denial of that motion. See Key, 205 F.3d at 774. The appeal is DISMISSED.