

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-30219
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

CHRISTOPHER KINGSLEY, also known as Keg,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 97-CR-50079-1

December 12, 2001

Before HIGGINBOTHAM, BARKSDALE, and STEWART, Circuit Judges.

PER CURIAM:*

Christopher Kingsley, federal inmate #09803-035, moves for leave to proceed in forma pauperis (IFP) on appeal from the denial of his 18 U.S.C. § 3582(c)(2) motion. "To proceed on appeal [IFP], a litigant must be economically eligible, and his appeal must not be frivolous." Jackson v. Dallas Police Dep't, 811 F.2d 260, 261 (5th Cir. 1986).

The only possible issue for Kingsley to raise is the propriety of the district court's denial of the 18 U.S.C.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

§ 3582(c)(2) motion. Kingsley contended in the district court that an amendment to the guidelines, which purportedly altered U.S.S.G. § 1B1.3 and the method for determining the relevant cocaine quantity corresponding to Kingsley's base offense level, became effective November 1, 2000, and is given retroactive effect pursuant to U.S.S.G. § 1B1.10, p.s. Section 1B1.10(c) does not list a retroactively applied amendment that would affect Kingsley's sentence. Kingsley was not entitled to a reduced sentence. See United States v. Drath, 89 F.3d 216, 218 (5th Cir. 1996). The district court did not abuse its discretion in denying Kingsley's § 3582(c)(2) motion. See United States v. Shaw, 30 F.3d 26, 28 (5th Cir. 1994).

Because the appeal does not raise any issue of arguable merit, see Jackson, 811 F.2d at 261, IT IS ORDERED that IFP is DENIED. See 5TH CIR. R. 42.2. Because the appeal is frivolous, it is DISMISSED.

APPEAL DISMISSED. MOTION DENIED.