

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 02-40916
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

LUIS ANTONIO RIVERA-HERNANDEZ, also known as
Cesar Javier Ibarra-Gaytan, also known as
Francisco Javier Ibarra-Gaytan,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. L-00-CR-1146-ALL

February 19, 2003

Before WIENER, EMILIO M. GARZA, and CLEMENT, Circuit Judges.

PER CURIAM:*

Luis Antonio Rivera-Hernandez, federal prisoner # 84801-079, appeals the denial of his motion for modification of sentence pursuant to 18 U.S.C. § 3582(c)(2). He argues that Amendment 632 is a clarification of U.S.S.G. § 2L1.2 and should be applied retroactively.

Amendments to the Sentencing Guidelines may not be applied retroactively upon a motion under 18 U.S.C. § 3582(c)(2) unless

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

they are specifically set forth in U.S.S.G. § 1B1.10(c). U.S.S.G. § 1B1.10(a), p.s. (Nov. 2001). Amendment 632 is not listed in U.S.S.G. § 1B1.10(c) and therefore may not be applied retroactively under Rivera's motion. See United States v. Drath, 89 F.3d 216, 218 (5th Cir. 1996). Accordingly, the district court did not abuse its discretion when it denied Rivera's 18 U.S.C. § 3582(c)(2) motion.

AFFIRMED.