

April 23, 2003

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 02-50559
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

MODESTO ZAMBRANO GONZALEZ, also known as
Fred Sambrano, also known as Modesto
Gonzalez,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. SA-00-CR-470-ALL

Before DAVIS, BARKSDALE, and STEWART, Circuit Judges.

PER CURIAM:*

Modesto Zambrano Gonzalez is appealing the district court's denial of his motion for the reduction of his sentence pursuant to 18 U.S.C. § 3582(c)(1). He argues that he is entitled to have his sentence shortened under Amendment 632 to the Sentencing Guidelines.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Amendments may be applied retroactively upon a motion under 18 U.S.C. § 3582(c)(2) only if 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 § 1B1.10(c) and therefore may not be applied retroactively. See § 1B1.10(c), p.s. (Nov. 2001); United States v. Drath, 89 F.3d 216, 218 (5th Cir. 1996). The district court lacked the authority to modify Gonzalez's sentence under 18 U.S.C. § 3582(c)(2) and, thus, did not abuse its discretion in denying the motion under that provision.

AFFIRMED.