

April 21, 2003

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 02-50823  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

VICTOR ZAMUDIO-HINOJOSA,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. EP-01-CR-1130-ALL-H  
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Before DAVIS, BARKSDALE, and STEWART, Circuit Judges.

PER CURIAM:\*

Victor Zamudio-Hinojosa, federal prisoner # 17071-180, appeals the district court's denial of his 18 U.S.C. § 3582(c)(2) motion wherein he argued that the 2001 Sentencing Guidelines version of § 2L1.2 should be applied retroactively to his sentence under Amendment 632.

Amendments to the Sentencing Guidelines may not be applied retroactively upon a motion under 18 U.S.C. § 3582(c)(2) unless they are specifically set forth in U.S.S.G. § 1B1.10(c).

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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 Zamudio-Hinojosa's motion. See United States v. Drath, 89 F.3d 216, 218 (5th Cir. 1996) (amendment not listed in U.S.S.G. § 1B1.10(c) "cannot be given retroactive effect in the context of a § 3582(c)(2) motion"). Accordingly, the district court did not abuse its discretion when it denied Zamudio-Hinojosa's 18 U.S.C. § 3582(c)(2) motion.

AFFIRMED.