

June 24, 2003

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 02-51010  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

FRANK PRINCIPE-ESPINOZA, also known  
as Roberto Carlos Sanchez-Gutierrez,  
also known as Frank Principe,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. EP-01-CR-823-DB  
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Before DeMOSS, DENNIS, and PRADO, Circuit Judges.

PER CURIAM:\*

Frank Principe-Espinoza, federal prisoner # 14170-051,  
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 U.S.S.G. § 2L1.2(b) 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

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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that this opinion should not be published and is not precedent  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.

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 Principe-Espinoza'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 Principe-Espinoza's 18 U.S.C. § 3582(c)(2) motion.

AFFIRMED.