

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 95-50694  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

STEPHEN BOGDON,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. A-88-CR-120  
- - - - -

June 26, 1996

Before HIGGINBOTHAM, BARKSDALE, and BENAVIDES, Circuit Judges.

PER CURIAM:\*

Stephen Bogdon, Texas prisoner # 40215-080, appeals the district court's denial of his motion to reduce his term of imprisonment under 28 U.S.C. § 3582(c)(2). He argues that the district court abused its discretion in dismissing his § 3582(c)(2) motion. He argues that Amendment 268, which clarified § 4B1.2(2) of the U.S. Sentencing Guidelines, should be applied retroactively to reduce his term of imprisonment. Because

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\* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

Amendment 268 is not listed as having retroactive application under § 1B1.10(c) of the Guidelines, Bogdon may not obtain relief under § 3582(c)(2). See United States v. Shaw, 30 F.3d 26, 29-30 (5th Cir. 1994); United States v. Miller, 903 F.2d 3412, 349 (5th Cir. 1990).

AFFIRMED.