

April 11, 2006

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 04-30187
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

CHARLES EDWARD FRANKLIN,

Defendant-Appellant.

Appeal from the United States District Court
for the Eastern District of Louisiana
USDC No. 2:97-CR-287-ALL-K

Before JONES, Chief Judge, and JOLLY and DAVIS, Circuit Judges.

PER CURIAM:*

Charles Edward Franklin, federal prisoner # 02917-095, appeals the district court's denial of his 18 U.S.C. § 3582(c)(2) motion to reduce his sentence based on Amendment 599 to the United States Sentencing Guidelines. Franklin pleaded guilty to being a felon in possession of a firearm, in violation of 18 U.S.C. §§ 922(g)(1) and 924(e)(1). The district court sentenced him as an armed career criminal under U.S.S.G. § 4B1.4.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Franklin argues that the enhancement for being an armed career criminal was impermissible double counting under Amendment 599. However, that provision did not change § 4B1.4, see U.S.S.G. App. C, amend. 599, and the denial of Franklin's § 3582(c)(2) motion was not an abuse of discretion. See United States v. Pardue, 36 F.3d 429, 430 (5th Cir. 1994).

AFFIRMED.