

April 22, 2003

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 02-41122
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

HOWARD HARRY HANSON,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. C-00-CR-93-1

Before DAVIS, BARKSDALE, and STEWART, Circuit Judges.

PER CURIAM:*

Howard Harry Hanson ("Hanson"), federal prisoner # 07330-079, appeals the district court order denying his motion to compel the Government to file a FED. R. CRIM. P. 35(b) motion. Hanson argues that the Government breached the plea agreement and that the district court abused its discretion in failing to question the Government regarding the representations contained in the plea agreement.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

With limited exceptions, a motion for reduction of sentence for substantial assistance must be filed by the Government within one year after the sentence was imposed. FED. R. CRIM. P. 35(b). Hanson filed his motion nearly two years after his sentence was imposed and does not assert that the exceptions to this rule apply. See United States v. Mitchell, 964 F.2d 454, 461 (5th Cir. 1992). Furthermore, the plea agreement upon which Hanson relies made no representations regarding a FED. R. CRIM. P. 35(b) motion and the district court cannot compel the Government to file one. See United States v. Amaya, 111 F.3d 386, 387 n.2, 388 (5th Cir. 1997).

AFFIRMED.