

April 9, 2003

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 02-41739
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JOSE SILVA-RAMOS,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. L-02-CV-139
USDC No. L-00-CR-1249-ALL

Before DAVIS, WIENER, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:*

Jose Silva-Ramos (Silva), federal prisoner # 96260-79, appeals the district court's denial of his postjudgment motion seeking a downward departure in his sentence. Silva has appealed from the denial of an unauthorized motion. See United States v. Early, 27 F.3d 140, 142 (5th Cir. 1994). Although he attempts, in this court, to characterize his motion as seeking relief pursuant to 18 U.S.C. § 3582(c)(2), that statute is

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

inapplicable and does not provide a jurisdictional basis for Silva's motion. See id. Accordingly, this appeal is dismissed for lack of jurisdiction. See id.

Silva's motion to proceed *in forma pauperis* (IFP) on appeal is DENIED. Silva's request for a certificate of appealability (COA) is DENIED as unnecessary.

APPEAL DISMISSED; MOTION FOR IFP DENIED; REQUEST FOR COA DENIED AS UNNECESSARY.