

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 02-50314
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

GUSTAVO GONZALEZ-BAUTISTA,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. EP-00-CR-318-ALL-H

October 28, 2002

Before BARKSDALE, DeMOSS, and BENAVIDES, Circuit Judges.

PER CURIAM:*

Gustavo Gonzalez-Bautista, federal prisoner number 15950-051, appeals the denial of his motion for modification of sentence pursuant to 18 U.S.C. § 3582(c)(2). He argues that Amendment 632 is a clarification of U.S.S.G. § 2L1.2 and should be applied retroactively. Amendments to the Guidelines may not be applied retroactively upon a motion under 18 U.S.C. § 3582(c)(2) unless 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

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

632 is not listed in U.S.S.G. § 1B1.10(c) and therefore may not be applied retroactively. See U.S.S.G. § 1B1.10(c), p.s. (Nov. 2001).

Gonzalez also contests his conviction. He alleges that he is a United States citizen and, therefore, not properly the subject of an illegal reentry conviction. Such a claim is not cognizable in an 18 U.S.C. § 3582(c)(2) motion. The district court did not abuse its discretion in denying Gonzalez's motion. AFFIRMED.