

October 22, 2003

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-10400
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ANDRES RAMOS,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:92-CR-155-7-Y

Before KING, Chief Judge, and JOLLY and STEWART, Circuit Judges.

PER CURIAM:*

Andres Ramos appeals the denial of his motion to reduce his sentence pursuant to 18 U.S.C. § 3582(c). Ramos filed his motion based on Amendment 505 to the sentencing guidelines. Ramos's premise for his argument that his sentence would have been lower had Amendment 505 been applied because this court determined on direct appeal that the district court committed harmless error when it enhanced his base offense level for possession of firearms is mistaken. In fact, this court held that the Government proved a sufficient nexus between Ramos's activities

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

and the firearms to warrant the increase. United States v. Ramos, 71 F.3d 1150, 1157 (5th Cir. 1996).

Because the range of imprisonment that Ramos could have received would have remained the same had Amendment 505 been applied, he fails to show that the district court abused its discretion when it denied his motion. United States v. Whitebird, 55 F.3d 1007, 1009 (5th Cir. 1995).

AFFIRMED.