

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

February 20, 2008

Charles R. Fulbruge III
Clerk

No. 07-10129

Conference Calendar

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

WAYLAND THOMAS WILSON

Defendant-Appellant

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:92-CR-238-2

Before KING, WIENER, and ELROD, Circuit Judges.

PER CURIAM:*

Wayland Thomas Wilson, federal prisoner # 23027-077, was sentenced in 1993 to a total of 444 months of imprisonment for conspiracy to distribute certain controlled substances, possession with intent to distribute certain controlled substances, money laundering, and the use of a telephone, firearms, and a residence within 1000 feet of a school in connection with drug offenses. Wilson appeals the district court's denial of his 18 U.S.C. § 3582(c)(2) motion to reduce his sentence based on retroactive Amendment 591 to the Sentencing

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Guidelines. Wilson argues that, based upon Amendment 591, the sentencing court miscalculated his base offense level.

Wilson's argument is without merit. Amendment 591 applies to the determination of the appropriate Chapter Two offense guidelines section, and Wilson was properly sentenced under U.S.S.G. § 2D1.1, the appropriate offense guidelines section for his conviction under 21 U.S.C. § 846. Amendment 591 is irrelevant to the determination of base (or specific) offense levels within the applicable offense guidelines section or to any consideration of relevant conduct. U.S.S.G. App. C, Amendment 591 (Nov. 2000). To the extent that Wilson merely argues that his sentence was improperly calculated, that is not a ground for modification of a sentence under § 3582(c).

The judgment of the district court is **AFFIRMED**. The Government's motion for summary affirmance in lieu of filing a brief is **GRANTED**. The Government's alternative motion for an extension of time is **DENIED**.