

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

June 25, 2008

No. 07-50858
Summary Calendar

Charles R. Fulbruge III
Clerk

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

ANDRE GIBSON

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Texas
USDC No. 1:02-CR-238-1

Before SMITH, BARKSDALE, and ELROD, Circuit Judges.

PER CURIAM:*

Andre Gibson, federal prisoner # 28834-180, appeals, pro se, the district court's denial of his motion for reconsideration of its order granting the Government's motion to reduce Gibson's sentence from 108 to 96 months pursuant to Federal Rule of Criminal Procedure 35(b). Gibson asserts the Government breached its agreement to recommend a greater reduction.

A motion for reconsideration in a criminal proceeding is timely if filed within the period allotted for noticing an appeal; in this instance, within ten

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

days of the order granting the Rule 35(b) motion. See *United States v. Brewer*, 60 F.3d 1142, 1143-44 (5th Cir. 1995); FED. R. APP. P. 4(b). Gibson's motion, however, was filed more than fifteen months after the order. Accordingly, it was untimely. See *United States v. Cook*, 670 F.2d 46, 48-49 (5th Cir. 1982).

AFFIRMED.