

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

June 20, 2011

Lyle W. Cayce
Clerk

No. 08-20221
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

TOMMY ALEXANDER, SR.,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:89-CR-331-1

Before KING, BENAVIDES, and ELROD, Circuit Judges.

PER CURIAM:*

Tommy Alexander, Sr., federal prisoner # 07193-035, moves to proceed in forma pauperis (IFP) on appeal of the denial of his motion for a sentencing reduction under 18 U.S.C. § 3582(c)(2), and he requests permission to file a supplemental brief. The motion to file a supplemental brief is GRANTED. The district court denied Alexander leave to appeal IFP, but it did not certify that his appeal was not taken in good faith. *See* FED. R. App. P. 24(a). We may

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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nevertheless dismiss the appeal sua sponte pursuant to 5TH CIR. R. 42.2 if it is apparent that the appeal lacks merit.

Alexander argues that the district court abused its discretion in denying his § 3582(c)(2) motion because the court did not enter written findings or cite specific reasons to support its determination that he poses a danger to the community. He contends that he is a 60-year-old grandfather who has already served almost twenty years in prison and that the reduction of his sentence to one within the amended guideline range is unlikely to endanger the community.

The district court determined that Alexander was eligible for a reduction in sentence pursuant to Amendment 706 to the Sentencing Guidelines, but it denied a reduction in the interest of community safety. *See Dillon v. United States*, 130 S. Ct. 2683, 2691-92 (2010); 18 U.S.C. § 3553(a)(2)(C). No further reasons were required. *See United States v. Henderson*, 636 F.3d 713, 718 (5th Cir.2011).

As Alexander has not shown that the denial of his § 3582(c)(2) motion presents a non-frivolous appellate issue, his motion for leave to proceed IFP is DENIED, and the appeal is DISMISSED. *See* 5TH CIR. R. 42.2.