

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

United States Court of Appeals  
Fifth Circuit

**FILED**

November 5, 2008

Charles R. Fulbruge III  
Clerk

---

No. 08-30447  
Summary Calendar

---

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

ANTOINE THOMPSON

Defendant-Appellant

---

Appeal from the United States District Court  
for the Eastern District of Louisiana  
USDC No. 2:03-CR-70-1

---

Before SMITH, STEWART and SOUTHWICK, Circuit Judges.

PER CURIAM:\*

Antoine Thompson, now federal prisoner # 28287-034, was convicted of being a felon in possession of a firearm and sentenced to 92 months of imprisonment. Thompson appeals the district court's denial of his 18 U.S.C. § 3582(c)(2) motion for a reduction of sentence, which primarily was based on recent amendments to the Sentencing Guidelines for cocaine base (crack). The Federal Public Defender (FPD), who was appointed by the district court, has filed a motion for leave to withdraw, to appoint substitute counsel, and to stay

---

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

the briefing schedule. Thompson has filed a pro se motion for appointment of counsel.

Because Thompson was not convicted of a cocaine base offense, he is not eligible for relief pursuant to § 3582(c)(2) and the recent guidelines amendments for cocaine base offenses. His remaining arguments for resentencing may not be brought in a § 3582(c)(2) motion, because they do not rely on a retroactively applicable guideline amendment. His appeal is entirely without merit. Therefore, counsel's motion to withdraw is granted, Thompson's motion for appointment of counsel is denied, the motion to suspend the briefing schedule is denied as unnecessary, and this appeal is dismissed. See 5TH CIR. R. 42.2.

MOTION TO WITHDRAW GRANTED; MOTION FOR APPOINTMENT OF COUNSEL DENIED; MOTION TO STAY BRIEFING SCHEDULE DENIED; APPEAL DISMISSED.