

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

United States Court of Appeals  
Fifth Circuit

**FILED**

March 22, 2010

\_\_\_\_\_  
No. 09-30508

Summary Calendar

Charles R. Fulbruge III  
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

DAVID JEROME FRANK,

Defendant-Appellant

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Appeal from the United States District Court  
for the Western District of Louisiana  
USDC No. 2:03-CR-20067-1  
\_\_\_\_\_

Before BENAVIDES, PRADO, and SOUTHWICK, Circuit Judges.

PER CURIAM:\*

David Jerome Frank appeals the district court's order denying his motion to reduce his sentence under 18 U.S.C. § 3582(c)(2) in light of the amendment to the crack cocaine guideline. He asserts that he is entitled to a sentence reduction pursuant to U.S.S.G. § 1B1.10 and the sentencing factors under 18 U.S.C. § 3553(a) because he was convicted of conspiracy to distribute cocaine base. He contends that his status as a career offender should not preclude the reduction of his sentence. He also asserts that he is eligible for a sentence

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

reduction in light of *United States v. Booker*, 543 U.S. 220 (2005). After Frank's brief was filed in this court, we issued our decision in *United States v. Anderson*, 591 F.3d 789 (5th Cir. 2009). The issues raised by Frank are foreclosed by *Anderson*, 591 F.3d at 789-91.

AFFIRMED.