

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

United States Court of Appeals
Fifth Circuit

FILED

June 6, 2011

Lyle W. Cayce
Clerk

No. 10-50910
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

CORY TYRONE ROBINSON, SR., also known as Cedrick Lawarren Robinson,
also known as Cory Tyrone Robinson,

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Texas
USDC No. 6:06-CR-5-2

Before HIGGINBOTHAM, SMITH, and HAYNES, Circuit Judges.

PER CURIAM:*

Cory Tyrone Robinson, Sr., federal prisoner # 56493-180, has moved to proceed in forma pauperis (IFP) in this appeal of the denial of his motion for a sentencing reduction under 18 U.S.C. § 3582(c)(2). The district court denied Robinson 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 nevertheless dismiss the appeal

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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sua sponte pursuant to 5TH CIR. R. 42.2 if it is apparent that the appeal lacks merit.

Robinson argues that the district court abused its discretion in denying his motion for a sentencing reduction because it failed to consider 18 U.S.C. § 3553(a)(6), which concerns the need to avoid unwarranted sentencing disparities, and placed too great a weight on his criminal history. Robinson's unwarranted-disparity argument is without merit because it amounts to a request that the court make a sentencing reduction mandatory when requested pursuant to the crack cocaine amendments. *United States v. Smith*, 595 F.3d 1322, 1323 (5th Cir.), *cert. denied*, 130 S. Ct. 3374 (2010). The district court provided reasons for denying Robinson's motion that reflect its consideration of the § 3553(a) factors. *See United States v. Cooley*, 590 F.3d 293, 297-98 (5th Cir. 2009); *United States v. Whitebird*, 55 F.3d 1007, 1010 (5th Cir. 1995). Robinson's effort to have us weigh the factors anew is unavailing.

Robinson has not shown that the denial of his § 3582(c)(2) motion presents a nonfrivolous issue for appeal. Accordingly, his motion for leave to proceed IFP is denied, and his appeal is dismissed. 5TH CIR. R. 42.2.

MOTION DENIED; APPEAL DISMISSED.