

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

United States Court of Appeals
Fifth Circuit

FILED

June 26, 2013

Lyle W. Cayce
Clerk

No. 12-50366

Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

RICKY LAMONT GARRETT,

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Texas
USDC No. 6:06-CR-82-1

Before HIGGINBOTHAM, OWEN, and SOUTHWICK, Circuit Judges.

PER CURIAM:*

Ricky Lamont Garrett, federal prisoner # 56723-180, seeks our authorization to proceed in forma pauperis (IFP) in his appeal of the district court's denial of his 18 U.S.C. § 3582(c)(2) motion to reduce his sentence for possession with intent to distribute crack cocaine. By moving to proceed IFP, Garrett is challenging the district court's certification that the appeal is not taken in good faith. *See Baugh v. Taylor*, 117 F.3d 197, 202 (5th Cir. 1997); FED. R. APP. P. 24(a)(5).

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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Garrett argues that the district court erred when it did not reduce his sentence pursuant to retroactive provisions of Amendment 750 to the United States Sentencing Guidelines. The district court, after considering Garrett's § 3582(c)(2) motion and the 18 U.S.C. § 3553(a) factors, determined that a sentence reduction was not appropriate in Garrett's case because, given Garrett's prior felony drug conviction, he qualified for a 240-month mandatory minimum sentence, and he was sentenced to a lesser sentence of 224 months.

The district court did not abuse its discretion in denying Garrett's § 3582(c)(2) motion. *See* § 3582(c)(2); *United States v. Henderson*, 636 F.3d 713, 717 (5th Cir. 2011); *United States v. Whitebird*, 55 F.3d 1007, 1010 (5th Cir. 1995). Consequently, we may dismiss this frivolous appeal sua sponte. *See Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983); 5TH CIR. R. 42.2.

Garrett's IFP motion is DENIED, and the appeal is DISMISSED.