

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

No. 15-41505
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

November 8, 2016

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

LUIS GERARDO CASAREZ,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 5:09-CR-2897-4

Before HIGGINBOTHAM, PRADO, and HAYNES, Circuit Judges.

PER CURIAM:*

Luis Gerardo Casarez, federal prisoner # 55129-279, pleaded guilty to conspiracy to possess with intent to distribute in excess of 1000 kilograms of marijuana and he was sentenced to 73 months of imprisonment. He now appeals the district court's denial of his 18 U.S.C. § 3582(c)(2) motion, arguing, inter alia, that the district court erred by failing to afford him the opportunity to review and comment on the § 3582(c)(2) addendum to the presentence report

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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that was reviewed by the district court in its consideration of his motion. Casarez contends that he did not receive notice of the § 3582(c)(2) addendum until after he reviewed arguments set forth in the Government's brief in the instant appeal. He further argues that the district court's reasons for denying his motion were inadequate and do not allow meaningful appellate review.

A district court's decision whether to reduce a sentence under § 3582(c)(2) is reviewed for abuse of discretion. *United States v. Evans*, 587 F.3d 667, 672 (5th Cir. 2009). In the order denying relief, the district court expressly acknowledged that it considered Casarez's motion, the relevant policy statements of the Guidelines, and the sentencing factors of § 3553(a). *See Dillon v. United States*, 560 U.S. 817, 827 (2010). The district court was not required to expressly refer to specific § 3553(a) factors or provide more specific reasons in support of its determination that a reduction was not warranted. *United States v. Henderson*, 636 F.3d 713, 718 (5th Cir. 2011). However, Casarez was entitled to an opportunity to review and comment on the § 3582(c)(2) addendum prior to the district court's ruling, *see United States v. Mueller*, 168 F.3d 186, 189 (5th Cir.1999), and the record does not suggest that he was provided this opportunity. Also, on this record, this court cannot determine whether any error was harmless. *See id.*

Accordingly, we VACATE the judgment of the district court and REMAND for further proceedings. We express no opinion on the disposition of Casarez's motion on remand. Casarez's motions for expedited ruling and to supplement the record on appeal are DENIED.