

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

No. 16-50152
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

October 19, 2016

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

IGNACIO LUNA GARCIA,

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Texas
USDC No. 6:13-CR-155-1

Before JOLLY, WIENER, and SOUTHWICK, Circuit Judges.

PER CURIAM:*

Ignacio Luna Garcia, federal prisoner # 53034-280, seeks leave to proceed in forma pauperis (IFP) on appeal from the district court's denial of his 18 U.S.C. § 3582(c)(2) motion seeking modification of his sentence for possession with the intent to distribute methamphetamine and illegal reentry based on Amendment 782 to the Sentencing Guidelines. By moving to proceed IFP, Garcia is challenging the district court's certification decision that his

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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appeal was not taken in good faith because it is frivolous. *See Baugh v. Taylor*, 117 F.3d 197, 202 (5th Cir. 1997).

In this court, Garcia argues that the district court abused its discretion in denying his motion for a reduction of sentence. He contends that he is not a threat to public safety and asserts that a reduction of sentence should have been granted. We review for abuse of discretion a district court's decision whether to reduce a sentence pursuant to § 3582(c)(2). *United States v. Evans*, 587 F.3d 667, 672 (5th Cir. 2009).

In its order denying relief, the district court recognized that Garcia was eligible for a sentence reduction. *See Dillon v. United States*, 560 U.S. 817, 826-27 (2010). However, the district court denied Garcia's motion as a matter of discretion, referring specifically to the 18 U.S.C. § 3553(a) sentencing factors and Garcia's extensive criminal history. Garcia has not shown that the district court abused its discretion by denying him a sentence reduction. *See United States v. Whitebird*, 55 F.3d 1007, 1010 (5th Cir. 1995).

This appeal does not present a nonfrivolous issue. *See Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983). Accordingly, Garcia's motion for leave to proceed IFP is DENIED, and the appeal is DISMISSED as frivolous. *See Baugh*, 117 F.3d at 202 & n.24; 5TH CIR. R. 42.2.