

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

No. 17-10430
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

January 12, 2018

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

JASON WAYNE CHILDS,

Defendant-Appellant

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:10-CR-75-1

Before PRADO, ELROD, and GRAVES, Circuit Judges.

PER CURIAM:*

Jason Wayne Childs, federal prisoner # 39670-177, has moved for 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 for a sentence reduction based on Amendment 801 to the Sentencing Guidelines. By seeking leave to proceed IFP, Childs is challenging the district court's certification that his appeal is not

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

No. 17-10430

taken in good faith because it is frivolous. *See Baugh v. Taylor*, 117 F.3d 197, 202 (5th Cir. 1997).

Amendment 801 is not listed in U.S.S.G. § 1B1.10(d), p.s. *See* U.S. Sentencing Guidelines Manual, Supp. to App. C, Amendment 801, pp. 139-46 (2016); § 1B1.10(d), p.s. Accordingly, the district court was not authorized to reduce Childs's sentence pursuant to this amendment, and it did not abuse its discretion in denying Childs's § 3582(c)(2) motion. *See* § 1B1.10(a)(2)(A), comment. (n.1(A)), p.s.; *Dillon v. United States*, 560 U.S. 817, 826 (2010); *United States v. Henderson*, 636 F.3d 713, 717 (5th Cir. 2011).

This appeal does not present a nonfrivolous issue, and Childs has not brought it in good faith. *See Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983). The 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.