

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

No. 18-10762
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

April 12, 2019

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

CARLOS HUITRON MARTINEZ,

Defendant-Appellant

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:11-CR-146-21

Before JOLLY, COSTA, and HO, Circuit Judges.

PER CURIAM:*

Carlos Huitron Martinez, federal prisoner # 43160-177, appeals the district court's denial of his motion pursuant to 18 U.S.C. § 3582(c)(2). He seeks a reduction to his sentence of 168 months in prison, imposed following his guilty-plea conviction of conspiracy to possess with intent to distribute methamphetamine. *See* 21 U.S.C. §§ 841(a)(1) and (b)(a)(A)(viii), 846. According to Huitron Martinez, the district court lowered the guidelines

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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. 18-10762

sentencing range by varying downward in sentencing him originally. Based on that erroneous assertion, Huitron Martinez contends that the district court may now, in accordance with the lower drug-related offense levels of Amendment 782 to the Sentencing Guidelines, reduce his sentence. Additionally, he argues that the district court should do so based on his good conduct.

Although *res judicata* does not bar Huitron Martinez's second § 3582(c)(2) motion based on Amendment 782, *see United States v. Calton*, 900 F.3d 706, 713-714 (5th Cir. 2018), section 1B1.10(b)(2) of the Sentencing Guidelines prohibits the reduction of Huitron Martinez's sentence to a term below the minimum of his amended guidelines range of 168 months, *see United States v. Contreras*, 820 F.3d 773, 775 (5th Cir. 2016). The district court properly denied Huitron Martinez's § 3582(c) motion on this basis. *See Contreras*, 820 F.3d 773, 774 & n.1.

The judgment of the district court is AFFIRMED.