

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

January 15, 2021

Lyle W. Cayce
Clerk

No. 19-40963
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

MICHAEL JOSEPH DERROW,

Defendant—Appellant.

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 9:98-CR-6-9

Before STEWART, GRAVES, and HIGGINSON, *Circuit Judges*.

PER CURIAM:*

Michael Joseph Derrow, federal prisoner # 03199-286, moves for appointment of counsel and leave to proceed in forma pauperis (IFP) in this appeal from the district court's orders denying his motions seeking a reduction in his sentences of imprisonment for possession with the intent to

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

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distribute 50 grams or more of crack cocaine, 21 U.S.C. § 841(a)(1), and conspiracy to do the same, 21 U.S.C. §§ 841(a)(1) and 846, pursuant to section 404 of the First Step Act of 2018, Pub. L. No. 115-391, 132 Stat. 5194 (2018), and 18 U.S.C. § 3582(c)(1)(B). The district court originally sentenced Derrow to concurrent terms of 480 months in prison, but recently amended the judgment to sentence Derrow to time served in prison and a total of 17 years of supervised release.

The website of the Bureau of Prisons shows that Derrow was released from prison on July 13, 2020, following the district court's grant of Derrow's motion for compassionate release. Because Derrow has been released from prison and has not challenged his term of supervised release at any point, there is no relief which this court could grant should Derrow prevail. *See United States v. Heredia-Holguin*, 823 F.3d 337, 340 (5th Cir. 2016) (en banc). Therefore, although the First Step Act permits the modification of a term of supervised release, *see United States v. Batiste*, 980 F.3d 466, 479 (5th Cir. 2020), Derrow's appeal of the denial of a reduction to his prison sentences is moot. *See Heredia-Holguin*, 823 F.3d at 340; *United States v. Booker*, 645 F.3d 328, 328 (5th Cir. 2011).

Derrow's motions for appointment of counsel and to proceed IFP are DENIED as unnecessary and the appeal is DISMISSED as moot.