

United States Court of Appeals  
for the Fifth Circuit

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No. 22-51049

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United States Court of Appeals  
Fifth Circuit

**FILED**

April 3, 2023

Lyle W. Cayce  
Clerk

UNITED STATES OF AMERICA,

*Plaintiff—Appellee,*

*versus*

BALENTIN MARTINEZ QUINONES,

*Defendant—Appellant.*

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 6:99-CR-13-7

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Before ELROD, GRAVES, and HO, *Circuit Judges.*

PER CURIAM:\*

Balentin Martinez Quinones, federal prisoner # 33632-077, moves to withdraw his appeal from the district court's denial of his motion for a sentence reduction pursuant to 18 U.S.C. § 3582(c)(2). Although he nominally requests to withdraw his appeal without prejudice, Quinones has not requested a stay, and, therefore, he is not entitled to such a dismissal. *See* 5TH CIR. R. 42.4. Quinones has expressed his intent to file a

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\* This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

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§ 3582(c)(1)(A)(i) motion in the district court instead, and he now has filed that motion. Thus, we construe the instant motion as requesting the voluntary dismissal of the appeal with prejudice.

IT IS ORDERED that the motion, as construed, is GRANTED. *See* FED. R. APP. P. 42(b); 5TH CIR. R. 42.1. The appeal is DISMISSED.