

United States Court of Appeals
for the Fifth Circuit

No. 23-11004

United States Court of Appeals
Fifth Circuit

FILED

March 18, 2024

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

CESAR LOPEZ, JR.,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 1:22-CR-42-1

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

PER CURIAM:*

Cesar Lopez, Jr., federal prisoner # 03486-510, moves to dismiss his appeal from the district court's denial of his motion for a sentence reduction pursuant to 18 U.S.C. § 3582. Although he nominally requests to withdraw his appeal without prejudice, Lopez has not requested a stay, and, therefore, he is not entitled to such a dismissal. *See* 5th Cir. R. 42.4. Moreover, Lopez has offered no explanation as to why his appeal in this proceeding should be

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

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dismissed without prejudice. 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.