

United States Court of Appeals for the Fifth Circuit

No. 24-50401
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

April 21, 2025

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

HERNALDO PEREA BELTRAN,

Defendant—Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 7:00-CR-46-1

Before HIGGINBOTHAM, JONES, and OLDHAM, *Circuit Judges.*

PER CURIAM:*

Hernaldo Perea Beltran, federal prisoner # 51158-180, appeals the district court's denial of his motion pursuant to 18 U.S.C. § 3582(c)(2) based on Subpart 1 of Part B of Amendment 821 to the Sentencing Guidelines. The motion requested a reduction of Perea Beltran's current 342-month sentence of imprisonment for conspiring to distribute and to possess with the intent to

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

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distribute over five kilograms of cocaine. The district court denied the § 3582(c)(2) motion based on a determination that Perea Beltran was not eligible for a decrease of two offense levels as a zero-point offender pursuant to Amendment 821 because he did not satisfy all the criteria under U.S.S.G. § 4C1.1(a) (2023).

When his pro se appellate brief is given liberal construction, *see Morrow v. FBI*, 2 F.3d 642, 643 n.2 (5th Cir. 1993), Perea Beltran contends that he qualifies for a sentence reduction under Amendment 821 because he has zero criminal history points. However, because he received an aggravating role adjustment under U.S.S.G. § 3B1.1, Perea Beltran was not eligible for the two-point decrease in his offense level. *See* § 4C1.1(a)(10). In light of the foregoing, the district court did not err in denying Perea Beltran's § 3582(c)(2) motion. *See United States v. Calton*, 900 F.3d 706, 710 (5th Cir. 2018).

Accordingly, the decision of the district court is AFFIRMED.