

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-60086
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

SANTIAGO PERALTA, a/k/a
Jimmy Garcia,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 92-CR-209

(January 5, 1995)

Before DAVIS, JONES, and DUHÉ, Circuit Judges.

PER CURIAM:*

Santiago Peralta appeals the denial without prejudice of an 18 U.S.C. § 3582(c)(2) motion to reduce his sentence. In this Court he has filed a motion to dismiss his criminal case and a motion to toll the briefing time until we rule on the motion to dismiss.

In both his § 3582(c)(2) motion and in his motion to dismiss in this Court, Peralta has presented form pleadings that assert

* Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

that this Court and the district court are legislative, not Article III, courts; that the criminal jurisdiction of the federal courts is limited to common law and admiralty or maritime law and that a criminal prosecution presents no case or controversy; and that the United States cannot be a party plaintiff in federal court. The arguments are frivolous.

Therefore, IT IS ORDERED that Peralta's "Sworn Motion to Dismiss `Criminal Case'" is DENIED. Because the appeal of the underlying judgment is frivolous, we dispense with briefing and DISMISS the appeal. See 5th Cir. R. 42.2. Peralta's motion to toll the briefing schedule until we rule on his motion to dismiss is DENIED as moot.

MOTIONS DENIED.
APPEAL DISMISSED.