

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

October 20, 2009

No. 08-30696
Conference Calendar

Charles R. Fulbruge III
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

DERRICK DECARLO PARKER,

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 5:01-CR-50044-1

Before WIENER, BENAVIDES, and STEWART, Circuit Judges.

PER CURIAM:*

Derrick DeCarlo Parker, federal prisoner # 10876-035, appeals the sentence imposed following the district court's granting of his motion for reduction of sentence pursuant to 18 U.S.C. § 3582(c)(2). Parker argues that the holding in *United States v. Booker*, 543 U.S. 220 (2005), applies in § 3582(c)(2) proceedings and that the district court abused its discretion by not imposing a sentence below the amended guidelines sentence range. Parker also argues that

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

the district court committed procedural error by not giving reasons for not granting a greater sentence reduction and by not making an individualized sentencing determination.

Parker's assertions that *Booker* applies in § 3582(c)(2) proceedings and that the district court abused its discretion by not imposing a sentence below the amended guidelines sentence range are foreclosed by *United States v. Dublin*, 572 F.3d 235, 236-39 (5th Cir. 2009), *petition for cert. filed* (Sept. 21, 2009) (No. 09-6657). As the district court sentenced Parker to the lowest sentence within the amended guidelines sentence range and did not have authority to lower Parker's sentence further, *see id.*, any procedural error alleged by Parker was harmless. *See United States v. Sandle*, 123 F.3d 807, 812-13 (5th Cir. 1997).

AFFIRMED.