

United States Court of Appeals  
for the Fifth Circuit

United States Court of Appeals  
Fifth Circuit

**FILED**

September 15, 2021

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No. 20-30468  
Summary Calendar

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Lyle W. Cayce  
Clerk

UNITED STATES OF AMERICA,

*Plaintiff—Appellee,*

*versus*

VICTOR LACAYO,

*Defendant—Appellant.*

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Appeal from the United States District Court  
for the Eastern District of Louisiana  
USDC No. 2:13-CR-77-2

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Before WIENER, DENNIS, and HAYNES, *Circuit Judges.*

PER CURIAM:\*

Victor Lacayo, federal prisoner # 28551-034, filed a 18 U.S.C. § 3582(c)(2) motion in district court seeking a reduction of his sentence for conspiracy to distribute and to possess with intent to distribute at least one kilogram of heroin based on Amendment 782 to the Sentencing Guidelines.

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\* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

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*See* U.S.S.G. App. C, amend. 782. The district court denied § 3582(c)(2) relief and Lacayo filed both a timely notice of appeal.

Lacayo is ineligible for a sentence reduction under § 3582(c)(2) because his applicable guidelines range was determined based on the career offender enhancement under U.S.S.G. § 4B1.1 and not a drug quantity under U.S.S.G. § 2D1.1. *See* U.S.S.G. § 1B1.10(a)(2)(B); *United States v. Quintanilla*, 868 F.3d 315, 318-22 (5th Cir. 2017). Amendment 782 did not change § 4B1.1 in any way. *Quintanilla*, 868 F.3d at 318.

Lacayo contends that he was not sentenced based on the career offender enhancement because the district court granted his motion for a downward variance at sentencing and imposed a below-guidelines sentence. Lacayo was not eligible for a § 3582(c)(2) sentence reduction unless Amendment 782 had “the effect of lowering [his] applicable guideline range.” § 1B1.10(a)(2)(B). The “applicable guideline range” for purposes of § 1B1.10(a)(2)(B) is “the guideline range that ... is determined before consideration of ... any variance.” § 1B1.10, p.s., comment. (n.1(A)).

**AFFIRMED.**