

# United States Court of Appeals for the Fifth Circuit

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No. 24-20534  
Summary Calendar

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United States Court of Appeals  
Fifth Circuit

**FILED**

July 9, 2025

Lyle W. Cayce  
Clerk

UNITED STATES OF AMERICA,

*Plaintiff—Appellee,*

*versus*

CEDRIC MILBURN,

*Defendant—Appellant.*

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 4:19-CR-677-8

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Before KING, SOUTHWICK, and ENGELHARDT, *Circuit Judges*.

PER CURIAM:\*

Cedric Milburn, federal prisoner # 10163-035, appeals the district court's grant of the Government's motion to reduce his sentence under Federal Rule of Criminal Procedure 35(b) and the district court's denial of his motion for reconsideration.

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

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Milburn argues that the district court reversibly erred by granting the Government's motion under Rule 35(b) without considering his response seeking a greater sentencing reduction, which denied him the opportunity to be heard. The Government has filed an unopposed motion for summary affirmance and, alternatively, for an extension of time to file a merits brief. As Milburn concedes, his challenge is foreclosed by *United States v. McMahan*, 872 F.3d 717, 718-21 (5th Cir. 2017). He raises the issue to preserve it for further review.

Because summary affirmance is appropriate, *see Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969), the Government's motion for summary affirmance is GRANTED, the Government's alternative motion for an extension of time to file a brief is DENIED, and the district court's judgment is AFFIRMED.