

United States Court of Appeals for the Fifth Circuit

No. 26-60174
Summary Calendar

United States Court of Appeals
Fifth Circuit
FILED
September 22, 2026

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

HECTOR MIGUEL DIAZ-OSUNA,

Defendant—Appellant.

Appeal from the United States District Court
for the Southern District of Mississippi
USDC No. 5:13-CR-13-1

Before DAVIS, JONES, and RICHMAN, *Circuit Judges*.

PER CURIAM:*

Hector Miguel Diaz-Osuna, federal prisoner # 37514-208, was convicted of voluntary manslaughter and conspiring to cause a riot in a federal penal facility. He was sentenced to consecutive terms of 180 months of imprisonment for manslaughter and 120 months for the conspiracy, for a total of 300 months.

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

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He now appeals from the denial of his motion for reconsideration of the sua sponte denial of a reduction in his 300-month sentence pursuant to 18 U.S.C. § 3582(c)(2). His appeal of the denial of the motion to reconsider “necessarily raises the underlying judgment for review.” *United States v. Rabhan*, 540 F.3d 344, 346-47 (5th Cir. 2008). Our review is for abuse of discretion. *See United States v. Calton*, 900 F.3d 706, 710 (5th Cir. 2018); *Rabhan*, 540 F.3d at 346.

Diaz-Osuna notes that retroactive application of Amendment 821 to the Sentencing Guidelines lowers his criminal history category from III to II and results in a lower guidelines range of 235 to 293 months of imprisonment. He argues that, by refusing to reduce his sentence, the district court abandoned the goal of consistency and uniformity in sentencing. The Government does not dispute that Diaz-Osuna is eligible for a sentence reduction but contends that the district court’s denial of a reduction was not an abuse of its discretion.

The record reflects that the district court recognized Diaz-Osuna’s eligibility for a reduction under § 3582(c)(2), but denied a reduction, and denied his motion for reconsideration, after weighing the sentencing factors of 18 U.S.C. § 3553(a). Specifically, the district court considered “the need to avoid unwarranted sentencing disparities,” § 3553(a)(6), but determined that a reduction was not warranted after accounting for the seriousness of Diaz-Osuna’s offense, his criminal history, and the goals of sentencing. Diaz-Osuna’s contentions regarding the need for consistency in sentencing amount to a mere disagreement with the district court’s weighing of the § 3553(a) factors, which is insufficient to show an abuse of discretion. *See United States v. Lopez-Velasquez*, 526 F.3d 804, 807 (5th Cir. 2008).

AFFIRMED.