

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 92-1721
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ODED BENARY,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:87-CR-0153-T
- - - - -
August 19, 1993

Before JOLLY, JONES, and DUHÉ, Circuit Judges

PER CURIAM:*

Fed. R. Crim. P. 35(b), as applicable to offenses committed prior to November 1, 1987, requires that a motion to reduce sentence be filed within 120 days after issuance of the appellate court's mandate, or within 120 days of a denial of review by the Supreme Court. The 120-day limitation in Rule 35(b) "is jurisdictional and may not be extended." United States v. Addonizio, 442 U.S. 178, 189, 99 S.Ct. 2235, 60 L.Ed.2d 805 (1979) (footnote omitted). "[F]ederal district courts have no

* 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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

jurisdiction to entertain motions for reconsideration of a Rule 35 denial of relief, unless the motion to reconsider is filed within 120 days from the date the conviction became final." In re United States, 900 F.2d 800, 804 (5th Cir.), cert. denied, 498 U.S. 905 (1990).

Benary filed his motion for reconsideration on May 12, 1992, well beyond the 120-day limit. Therefore, the district court did not have jurisdiction to rule on Benary's motion and appropriately denied relief.

AFFIRMED.