

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 01-60899  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

RICKY BERNARD HARDIN,  
also known as Nard,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Northern District of Mississippi  
USDC No. 3:97-CR-133-1-S  
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June 18, 2002

Before HIGGINBOTHAM, DAVIS, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:\*

Ricky Bernard Hardin, federal prisoner # 10719-042, appeals from the district court's denial of his motion to modify sentence pursuant to 18 U.S.C. § 3582(c)(2). Hardin, who received a two-level sentence enhancement under U.S.S.G. § 3B1.1(c) as an organizer, leader, manager, or supervisor of criminal activity, argues that Amendment 500 to the sentencing guidelines clarified

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\* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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 law concerning such enhancements and should be applied "retroactively" to reduce his sentence.

Amendment 500 took effect on November 1, 1993, prior to Hardin's sentencing in 1998. See U.S.S.G., App. C, Amendment 500. Accordingly, Hardin's 18 U.S.C. § 3582(c)(2) motion is not based on a sentencing range that has "subsequently" been lowered by the Sentencing Commission. See United States v. Alvarez, 210 F.3d 309, 310 (5th Cir. 2000).

AFFIRMED.