

October 21, 2003

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-40086
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

AZZEDINE FAIDY,

Defendant-Appellant.

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 1:99-CR-70-1

Before KING, Chief Judge, and JOLLY and STEWART, Circuit Judges.

PER CURIAM:*

Azzedine Faidy, federal prisoner # 07913-078, appeals the district court's denial of his 18 U.S.C. § 3582(c)(2) motions wherein he argued that the 2001 Sentencing Guidelines version of U.S.S.G. § 2L1.2(b) should be applied retroactively to his sentence under Amendment 632. Faidy was convicted for attempted reentry into the United States following deportation in violation of 8 U.S.C. § 1326.

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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.

An amendment to the Sentencing Guidelines may not be applied retroactively upon a motion under 18 U.S.C. § 3582(c)(2) unless it is specifically set forth in U.S.S.G. § 1B1.10(c). U.S.S.G. § 1B1.10(a), p.s. (Nov. 2001). Because Amendment 632 is not listed in U.S.S.G. § 1B1.10(c), it may not be applied retroactively on Faidy's motions. See United States v. Drath, 89 F.3d 216, 218 (5th Cir. 1996). Accordingly, the district court did not abuse its discretion when it denied Faidy's 18 U.S.C. § 3582(c)(2) motions.

AFFIRMED.