

June 24, 2003

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-50082
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JOSE JORGE CASTILLO,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. A-99-CR-256-1-JN

Before DeMOSS, DENNIS, and PRADO, Circuit Judges.

PER CURIAM:*

Jose Jorge Castillo, federal prisoner # 04019-180, appeals the district court's denial of his 18 U.S.C. § 3582(c)(2) motion for reduction of his sentence for conspiracy to possess with intent to distribute cocaine in violation of 21 U.S.C. §§ 841(a)(1) and 846. Castillo argues that he is entitled to a sentence reduction under Amendment 640 to U.S.S.G. § 2D1.1(a)(3) (Nov. 2002). Amendments may be applied retroactively upon a motion under 18 U.S.C. § 3582(c)(2) only if they are specifically

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

set forth in U.S.S.G. § 1B1.10(c). U.S.S.G. § 1B1.10(a), p.s. (Nov. 2002). As Amendment 640 is not listed in U.S.S.G. § 1B1.10(c), it may not be applied retroactively. See United States v. Drath, 89 F.3d 216, 218 (5th Cir. 1996). The district court did not abuse its discretion in denying Castillo's motion under 18 U.S.C. § 3582(c)(2).

AFFIRMED.