

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

October 20, 2010

Lyle W. Cayce
Clerk

No. 08-51125

Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff - Appellee

v.

TERRENCE IAN HODGES,

Defendant - Appellant

Appeal from the United States District Court
for the Western District of Texas
USDC No. 6:98-CR-74-2

Before DAVIS, SMITH, and SOUTHWICK, Circuit Judges.

PER CURIAM:*

Terrence Ian Hodges, federal prisoner # 40242-080, was found guilty by a jury of one count of conspiracy to possess crack cocaine with intent to distribute, one count of possession of marijuana, and aiding and abetting the possession of marijuana. The district court sentenced him to serve 324 months of imprisonment and a ten-year term of supervised release. He now moves for leave to appeal in forma pauperis (IFP) from the district court's denial of his 18

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

U.S.C. § 3582(c)(2) motion to reduce his sentence based on recent amendments to the Sentencing Guidelines for crack cocaine.

By moving to proceed IFP, Hodges is challenging the district court's decision that his appeal was not taken in good faith because it is frivolous. *Baugh v. Taylor*, 117 F.3d 197, 201-02 (5th Cir. 1997). Hodges fails to brief, and has thus waived, any challenge he may have had to the district court's determination that the recent, retroactively applicable amendments to the Sentencing Guidelines for offenses involving crack cocaine had no effect on Hodges' sentencing range. *United States v. Whitfield*, 590 F.3d 325, 346 (5th Cir. 2009). Rather, Hodges argues that the principles announced in *United States v. Booker*, 543 U.S. 220 (2005), apply to Section 3582(c) motions. This argument lacks merit. *Dillon v. United States*, 130 S. Ct. 2683, 2692 (2010); *United States v. Evans*, 587 F.3d 667, 671-72 (5th Cir. 2009), *cert. denied*, 130 S. Ct. 3462 (2010); *United States v. Dublin*, 572 F.3d 235, 238-39 (5th Cir.), *cert. denied*, 130 S. Ct. 517 (2009).

Hodges has failed to show that he will raise a nonfrivolous issue on appeal. *Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983). Accordingly, his IFP motion is DENIED. Additionally, because this appeal is frivolous, it is DISMISSED. See 5th Cir. R. 42.2.