

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

No. 15-10349
Summary Calendar

United States Court of Appeals
Fifth Circuit
FILED
December 21, 2015
Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

MARTIN CARDONA GUTIERREZ,

Defendant-Appellant

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 5:14-CR-20

Before DAVIS, JONES, and HAYNES, Circuit Judges.

PER CURIAM:*

Martin Cardona Gutierrez, federal prisoner # 79308-180, moves for leave to proceed in forma pauperis (IFP) on appeal from the denial of his “Motion for Judgment Nunc Pro Tunc” alleging that he was sentenced incorrectly because he did not receive a three-level decrease for acceptance of responsibility in accordance with his plea agreement after his guilty plea conviction for conspiracy to distribute and possess with intent to distribute cocaine.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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Gutierrez received the three-level reduction for acceptance of responsibility, and his motion and appeal are patently frivolous. This appeal is “from the denial of a meaningless, unauthorized motion.” *See United States v. Early*, 27 F.3d 140, 142 (5th Cir. 1994). Gutierrez has failed to show that his appeal involves “legal points arguable on their merits (and therefore not frivolous).” *Howard v. King*, 707 F.2d 215, 220 (5th Cir.1983) (internal quotation marks omitted). Accordingly, the motion for leave to proceed IFP on appeal is DENIED and the appeal is DISMISSED as frivolous. *See Baugh v. Taylor*, 117 F.3d 197, 202 & n.24 (5th Cir. 1997).