

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

No. 15-50617
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED
December 3, 2015

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

ROBERT JOHN MUZNY,

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Texas
USDC No. 6:06-CR-20

Before DAVIS, JONES, and HAYNES, Circuit Judges.

PER CURIAM:*

Robert John Muzny, federal prisoner # 56652-180, seeks leave to proceed in forma pauperis (IFP) on appeal from the district court's denial of his 18 U.S.C. § 3582(c)(2) motion to reduce his sentence based on retroactive Amendment 782 to U.S.S.G. § 2D1.1. By moving to proceed IFP, Muzny is challenging the district court's certification that his appeal was not taken in good faith. *See Baugh v. Taylor*, 117 F.3d 197, 202 (5th Cir. 1997).

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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Muzny contends that the district court abused its discretion in denying a sentencing reduction because it gave too much weight to his criminal history and not enough weight to other 18 U.S.C. § 3553(a) sentencing factors, including unwarranted sentence disparities, as well as his post-sentence rehabilitation.

Contrary to Muzny's assertions, the record reflects that the district court considered the relevant § 3553(a) factors, expressly determining that relief was unwarranted especially in light of Muzny's significant criminal history. The district court further determined that Muzny's 188-month sentence fell within the amended guidelines range. Thus, Muzny cannot show an abuse of discretion on the district court's part. *See United States v. Larry*, 632 F.3d 933, 936 (5th Cir. 2011); *United States v. Evans*, 587 F.3d 667, 673 (5th Cir. 2009).

Muzny has failed to show that he will raise a nonfrivolous issue on appeal. *See 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; Baugh*, 117 F.3d at 202 n.24.