

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 96-60663  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

KENNETH D. BLACK,

Defendant-Appellant.

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Appeal from the United States District Court for the  
Northern District of Mississippi  
USDC No. 4:95-CR-131-D

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August 15, 1997  
Before KING, JOLLY, and DENNIS, Circuit Judges.

PER CURIAM:\*

Kenneth D. Black appeals the denial of his motion for "Reduction of Sentence pursuant to Rule 35(c) of the Federal Rules of Criminal Procedure." Because the motion was not timely filed and was otherwise unauthorized, the district court had no jurisdiction to entertain the motion. United States v. Early, 27 F.3d 140, 141-142 (5th Cir.), cert. denied, 115 S.Ct. 600 (1994). Although the district court denied the motion for lack of jurisdiction on the merits, it should have denied the motion solely for lack of jurisdiction. See id. However, this court can and

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

does affirm on the alternative basis. See Bickford v. International Speedway Corp., 654 F.2d 1028, 1031 (5th Cir. 1981).

A F F I R M E D.