

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 97-50026
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

DOMINGO MARTINEZ,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Western District of Texas
USDC No. A-90-CR-142-1
- - - - -

June 18, 1997

Before SMITH, STEWART, and DENNIS, Circuit Judges.

PER CURIAM:*

Domingo Martinez appeals the district court's denial of his post-conviction motion for reduction of his sentence pursuant to 18 U.S.C. § 3582(c)(2). The district court did not abuse its discretion in refusing to resentence Martinez, especially since his current sentence falls within the amended guideline range. See United States v. Whitebird, 55 F.3d 1007, 1009 (5th Cir. 1995); United States v. Shaw, 30 F.3d 26, 28-29 (5th Cir. 1994).

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

The motion to file a reply brief out of time is DENIED.
AFFIRMED.