

United States Court of Appeals
Fifth Circuit

FILED

February 17, 2004

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-50703
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

RAUL SOTELO-LOPEZ, also known as El Samurai,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. EP-99-CR-1129-1-DB

Before HIGGINBOTHAM, EMILIO M. GARZA, and PRADO, Circuit Judges.

PER CURIAM:*

Raul Sotelo-Lopez appeals from the district court's denial of his pro se "Motion to Modify Sentence." In that motion, Sotelo-Lopez alleged that the Government had breached a post-sentencing agreement and asked the district court to award him specific performance by ordering the Government to file a motion for an additional downward departure pursuant to U.S.S.G.

§ 5K1.1. The district court denied Sotelo-Lopez's motion on the

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

No. 03-50703

-2-

ground that the relief requested was not permitted under FED. R. CRIM. P. 35(c) (2002).

On appeal, Sotelo-Lopez argues that the district court should have granted his motion pursuant to FED. R. CRIM. P. 35(b) (2002) and 18 U.S.C. § 3582(c)(1)(B). Neither of those cited authorities permits the relief requested in Sotelo-Lopez's motion. Accordingly, the district court's denial of Sotelo-Lopez's "Motion to Modify Sentence" is AFFIRMED.