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Citation Limited Pursuant to 1st Cir. Loc. R. 32.3

United States Court of Appeals For the First Circuit

No. 02-2616

UNITED STATES,

Appellee,

v.

JESUS M. QUIÑONES-RODRIGUEZ,

Defendant, Appellant.

APPEAL FROM THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF PUERTO RICO

[Hon. José Antonio Fusté, U.S. District Judge]

Before

Boudin, Chief Judge,
Lipez and Howard, Circuit Judges.

Jesus M. Quiñones-Rodriguez on brief pro se.
H.S. Garcia, United States Attorney, Sonia I. Torres-Pabón,
Assistant United States Attorney, and Nelson Pérez-Sosa, Assistant
United States Attorney, on brief for appellee.

June 17, 2003

Per Curiam. Appellant Jesus Quiñones-Rodriguez appeals a district court order that summarily denied his motion for sentence reduction under 18 U.S.C. § 3582(c)(2)(2001) for lack of jurisdiction. Appellant is serving a 336-month incarcerative sentence for two armed carjackings in violation of 18 U.S.C. § 2119(1)(1992). See United States v. Quiñones-Rodriguez, 26 F.3d 213, 220 (1st Cir. 1994) (affirming sentence after a limited remand for explanation of upward departure); United States v. Quiñones-Rodriguez, 855 F. Supp. 523 (D.P.R. 1994) (explaining upward departure). Appellant's 18 U.S.C. § 3582(c)(2) motion alleged that appellant was entitled to a sentence reduction under Amendment 599 to the United States Sentencing Guidelines and U.S.S.G. § 1B1.10(c) (Nov. 2001) (identifying Amendment 599 as retroactive).

Applying plenary review to the district court's interpretation of Amendment 599, see United States v. Hickey, 280 F.3d 65, 67 (1st Cir.), cert. denied, 123 S. Ct. 212 (2002), we conclude that the order denying appellant sentencing relief was patently correct. The plain language of Amendment 599 shows that it does not apply to appellant because appellant was not convicted of a weapons offense over and above armed carjacking.¹

¹ United States v. Clements, No. 01-15623, (11th Cir. June 7, 2002), and United States v. Joseph, No. 01-16883 (11th Cir. July 18, 2002), are distinguishable from this case because those defendants were convicted of 18 U.S.C. § 924(c) offenses in addition to robbery offenses. Appellant stands convicted of only the two armed carjackings. Because he was neither prosecuted nor convicted of concomitant weapons offenses, appellant cannot benefit from

Accordingly, the order denying appellant's 18 U.S.C. § 3582(c)(2) motion is affirmed. See Loc. R. 27(c).

Amendment 599.