

United States Court of Appeals for the Fifth Circuit

No. 24-20534
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

July 9, 2025

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

CEDRIC MILBURN,

Defendant—Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:19-CR-677-8

Before KING, SOUTHWICK, and ENGELHARDT, *Circuit Judges*.

PER CURIAM:*

Cedric Milburn, federal prisoner # 10163-035, appeals the district court's grant of the Government's motion to reduce his sentence under Federal Rule of Criminal Procedure 35(b) and the district court's denial of his motion for reconsideration.

* This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

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Milburn argues that the district court reversibly erred by granting the Government's motion under Rule 35(b) without considering his response seeking a greater sentencing reduction, which denied him the opportunity to be heard. The Government has filed an unopposed motion for summary affirmance and, alternatively, for an extension of time to file a merits brief. As Milburn concedes, his challenge is foreclosed by *United States v. McMahan*, 872 F.3d 717, 718-21 (5th Cir. 2017). He raises the issue to preserve it for further review.

Because summary affirmance is appropriate, *see Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969), the Government's motion for summary affirmance is GRANTED, the Government's alternative motion for an extension of time to file a brief is DENIED, and the district court's judgment is AFFIRMED.