

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 11-15333
Non-Argument Calendar

FILED U.S. COURT OF APPEALS ELEVENTH CIRCUIT APRIL 9, 2012 JOHN LEY CLERK
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D.C. Docket No. 0:02-cr-60200-UU-1

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

VICTOR GARRY BAXTER,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Florida

(April 9, 2012)

Before TJOFLAT, PRYOR and KRAVITCH, Circuit Judges.

PER CURIAM:

In *United States v. Baxter*, 127 Fed. App'x 471 (11th Cir. (11th Cir. 2005), this court affirmed Victor Garry Baxter's convictions and sentences for distribution of crack cocaine and for possession with intent to distribute cocaine powder. In affirming his sentences, the court rejected Baxter's challenge to the fine the district court imposed, noting that the district court, in fining Baxter \$10,000 payable over a thirty-year period, had departed downward from the Guidelines range of \$20,000 to \$60,000.

In July 2011, Baxter moved the district court to clarify the amount of the fine he was to pay each month while in prison. The court denied his motion. He then petitioned the district court for Modification or Remission to Deter Fine pursuant to 18 U.S.C. § 3573, seeking deferral of payments on the fine until his release from prison. The court denied his motion, and he now appeals the ruling.

In the interests of justice, a district court may remit or defer the payment of a fine, or extend a defendant's payment schedule, upon the Government's petition showing that reasonable efforts to collect the fine are not likely to be effective. 18 U.S.C. § 3573. Here, because the petition was not filed by the Government, the district court lacked jurisdiction to entertain Baxter's petition.

AFFIRMED.