

NOT FOR PUBLICATION

In the
United States Court of Appeals
For the Eleventh Circuit

No. 25-13989
Non-Argument Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

RENE BENITEZ,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Florida
D.C. Docket No. 1:82-cr-00292-KMM-1

Before WILLIAM PRYOR, Chief Judge, and JORDAN and KIDD, Circuit
Judges.

PER CURIAM:

Rene Benitez appeals the denials of his *pro se* motions to modify or reduce his sentence under former Federal Rule of Criminal Procedure 35 and for reconsideration. The government moves for summary affirmance because Benitez did not file his motion under former Rule 35(b) within 120 days of when we affirmed his convictions in 2003. We grant the motion for summary affirmance.

Summary disposition is appropriate either where time is of the essence, such as “situations where important public policy issues are involved or those where rights delayed are rights denied,” or where “the position of one of the parties is clearly right as a matter of law so that there can be no substantial question as to the outcome of the case, or where, as is more frequently the case, the appeal is frivolous.” *Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969).

The government is clearly right as a matter of law. *Id.* The district court did not have jurisdiction over Benitez’s motion because he filed it decades after we affirmed his convictions. *See* Fed. R. Crim. P. 35(b) (1979); *Fernandez v. United States*, 941 F.2d 1488, 1492 (11th Cir. 1991). We **GRANT** the government’s motion and **AFFIRM**.