

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 10-2628

United States of America,

Appellee,

v.

Yamil Rivera-Kader, also known as
Llamil Kader,

Appellant.

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Appeal from the United States
District Court for the
District of Nebraska.

[UNPUBLISHED]

Submitted: October 28, 2010
Filed: October 29, 2010

Before LOKEN, MURPHY, and BENTON, Circuit Judges.

PER CURIAM.

Yamil Rivera-Kader appeals the district court's¹ order denying his petition for a writ of mandamus to compel the government to file a Federal Rule of Criminal Procedure 35(b) motion to reduce his sentence for substantial assistance.

The district court did not abuse its discretion: among other reasons, Rivera-Kader failed to establish that he had a clear and indisputable right to a Rule 35(b)

¹The HONORABLE LAURIE SMITH CAMP, United States District Judge for the District of Nebraska.

motion because his plea agreement reserved to the government the discretion whether to file such a motion. See In re MidAmerican Energy Co., 286 F.3d 483, 486 (8th Cir. 2002) (per curiam) (standard of review); In re SDDS, Inc., 97 F.3d 1030, 1034 (8th Cir. 1996). Accordingly, we affirm. See 8th Cir. R. 47B.
