

APR 29 2008

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ASTARTE DAVIS-RICE,

Petitioner - Appellant,

v.

UNITED STATES OF AMERICA,

Respondent - Appellee.

No. 07-17398

D.C. No. CV-03-00464-DLJ

MEMORANDUM\*

Appeal from the United States District Court  
for the Northern District of California  
D. Lowell Jensen, District Judge, Presiding

Submitted April 22, 2008\*\*

Before: GRABER, FISHER, and BERZON, Circuit Judges.

Federal prisoner Astarte Davis-Rice appeals pro se from the district court's order dismissing her motion for declaratory judgment. We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

---

\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

\*\* The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Davis-Rice contends that the Bureau of Prisons breached a contract by projecting her release date 30 days later than it should have been. Based on a stipulated agreement between the parties, the district court issued an order which stated, in relevant part, as follows: “the sentence will be reduced by eight months and 15 days (which is a total of 285 days).” However, eight months and 15 days is actually less than 285 days. The Bureau of Prisons noted the discrepancy and brought it to the attention of the parties, who jointly filed a letter with the district court confirming that the order should be modified to replace the number 285 with the number 255.

Davis-Rice’s argument that the error in drafting must be construed against the party drafting the document fails because the record reveals that the parties’ intent was to reduce Davis-Rice’s sentence by eight months and 15 days. *See United States ex rel. Union Bldg. Materials Corp. v. Haas & Haynie Corp.*, 577 F. 2d 568, 574 (9th Cir. 1978).

Moreover, the agreement expressly allowed for modification by writing, duly executed by all of the parties or their authorized representatives. Davis-Rice’s attorney, acting on her behalf, executed a facsimile copy of the joint letter to the district court confirming the modification to the agreement.

**AFFIRMED.**