

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

JAIME ROSALES-MORA,

Defendant.

ORDER

04-cr-26-bbc

Defendant Jaime Rosales-Mora has filed a motion for reduction of sentence under 18 U.S.C. § 3353(a)(6), asking that his sentence be reduced under the Department of Justice's Fast Track policy that will go into effect on March 1, 2012. Defendant's motion must be denied.

This court lacks authority to correct a sentence once it is imposed, with four exceptions: 1) within seven days of the imposition of sentence, the court may correct a sentence imposed as a result of arithmetical, technical or other clear error, Fed. R. Crim. P. 35(c); 2) the court may correct a sentence following remand from a court of appeals, Fed. R. Crim. P. 35(a); 3) the court may reduce a sentence upon motion by the government brought pursuant to Fed. R. Crim. P. 35(b); or (4) the court may reduce a sentence under

18 U.S.C. § 3582(c)(2) if the defendant was sentenced in reliance on a sentencing range that has since been lowered by the Sentencing Commission. None of these exceptions applies to defendant. The seven-day period has long since passed; the court of appeals did not remand his case to this court; and the government has not moved to reduce his sentence; and he is not asking for a reduction under § 3582(c)(2).

Defendant believes he qualifies for a sentence reduction under the Fast Track policy. The Fast Track (or early disposition) policy allows the government to offer a defendant a reduced sentence in exchange for an expedited plea as long as the defendant waives certain pretrial and post conviction rights. Under the holding in United States v. Ramirez, 652 F.3d 751 (7th Cir. 2011), "the defendant must promptly plead guilty, agree to the factual basis proffered by the government, and execute an enforceable waiver of specific rights before or during the plea colloquy."

I am aware of no law that would authorize a court to reduce an already imposed sentence under the early disposition policy. Even if I could reduce his sentence retroactively defendant has not shown that he would have been eligible for a lower sentence when he was sentenced in July 2004. It is true that defendant entered into a timely plea agreement in which he agreed to plead guilty to the indictment with the understanding that all relevant conduct would be considered by the sentencing judge, but he did not execute any waiver of specific rights before or during the plea colloquy as required under Ramirez. Therefore,

defendant would not be eligible for a sentence reduction under the Fast Track program even if this court had authority to consider his request.

ORDER

Defendant Jaime Rosales-Mora's motion for a reduction of sentence under 18 U.S.C. § 3553(a)(6) is DENIED.

Entered this 23d day of February, 2012.

BY THE COURT:

/s/
BARBARA B. CRABB
District Judge