

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

UNITED STATES OF AMERICA,

ORDER

Plaintiff,

05-cr-89-wmc

v.

LARRY L. HORTON,

Defendant.

Defendant Larry L. Horton pleaded guilty to possession with intent to distribute five grams or more of a mixture or substance containing cocaine base (*i.e.*, “crack cocaine”). On December 12, 2005, the district court sentenced Horton under the applicable United States Sentencing Guidelines to a term of 300 months in prison. Horton now has filed a motion to modify his term of imprisonment pursuant to 18 U.S.C. § 3582(c)(2) and a retroactive change to the United States Sentencing Guidelines (Amendment 750), which altered the drug-quantity table found in § 2D1.1 of the Guidelines and lowered the base offense level for crack-cocaine offenses as of November 1, 2011. (*See* Dkt. # 74.) After considering the entire record, and the government’s response, the motion will be denied.

The record confirms that Horton was not sentenced under § 2D1.1 of the Guidelines, which governs crack-cocaine offenses. Rather, Horton was sentenced based on his status as a career offender under § 4B1.1 of the Guidelines. Because Horton was not sentenced “based on a sentencing range that has subsequently been lowered by the

Sentencing Commission,” 18 U.S.C. § 3585(c)(2), he is not eligible for a reduced sentence. *See United States v. Griffin*, 652 F.3d 793, 803 (7th Cir. 2011), *cert. denied*, — U.S. —, 132 S. Ct. 1124 (2012).

ORDER

IT IS ORDERED that defendant Larry L. Horton’s motion for a sentence reduction under 18 U.S.C. § 3582(c)(2) (dkt. #74) is DENIED.

Entered this 29th day of April, 2013.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge