

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

UNITED STATES OF AMERICA,

ORDER

Plaintiff,

v.

06-cr-97-bbc

RICO YARBROUGH,

Defendant.

Defendant Rico Yarbrough has moved for a sentencing reduction under 18 U.S.C. § 3582. He contends that because he was sentenced for possession with intent to distribute cocaine base (crack cocaine) and the guidelines for crimes involving distribution of crack cocaine have been lowered and given retroactive effect, he is entitled to a reduction in his sentence. He is mistaken.

Defendant was sentenced on October 12, 2006 to a term of imprisonment of 235 months. His sentence was based on a total offense level of 33 and a criminal history category of VI, his guideline imprisonment range was 235 to 293 months. Defendant was held accountable for a drug quantity of 1.2 kilograms of cocaine base.

Defendant was resentenced under § 3582 once before. In January, 2009, he was sentenced to a term of imprisonment of 188 months based on an adjusted offense level of 31 and an amended guideline imprisonment range of 188-235 months.

Under the most recent retroactive amendment, defendant's base offense level for his drug quantity is 34 and his total offense level after deducting three levels for acceptance of responsibility remains 31, with the same guideline range of 188-235 months. Because the amendment does not have the effect of lowering defendant's guideline range, relief under § 3582 is not authorized.

ORDER

Defendant Rico Yarbrough's motion for a reduction of sentence under 18 U.S.C. § 3582 is DENIED.

Entered this 30th day of December, 2011.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge