

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

WILLIAM DALE DANIELS,

Defendant.

ORDER

07-cr-32-bbc

Defendant William Dale Daniels has moved for a reduction of the sentence imposed upon him on November 23, 2010, after he was found to have violated the conditions of his supervised release. Defendant argues that he should not have been sentenced to a term of 36 months because the sentencing guidelines in effect called for a maximum of twelve months.

There are at least two reasons why this motion must be denied. First, a sentencing court has no authority to amend a sentence once it is imposed. Exceptions to this rule exist but none that apply to defendant's situation. For example, the court may re-sentence a defendant if the original sentence is overturned on appeal or if the government moves for a reduction in sentence to reward the defendant for assistance provided the government in

connection with other cases. Defendant does not suggest that these or any other exceptions would come into play in his case.

Second, the court is not bound to apply a sentence within the guidelines when sentencing a defendant for a violation of supervised release conditions. The guidelines are advisory only, which means that the court is free to impose any sentence up to the statutory maximum, which is 36 months. Defendant was sentenced within that maximum.

ORDER

IT IS ORDERED that defendant William Dale Daniels's motion for a reduction of sentence is DENIED for defendant's failure to show that the court has any authority to reduce his sentence or that it made any error in imposing the sentence.

Entered this 10th day of November, 2011.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge