

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

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UNITED STATES OF AMERICA,

Plaintiff,

v.

RICKY PETTY,

Defendant.

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ORDER

10-cr-188-bbc

Defendant Ricky Petty has moved for a modification of his sentence under 18 U.S.C. § 3582. His motion will be denied because he does not qualify for a two-level reduction in his sentence under the recent guideline amendment.

When defendant was sentenced, he had a total offense level of 35 and a criminal history category of IV. His guidelines range was 235-293 months. However, he received a variance, which resulted in a sentence of only 216 months.

On February 3, 2012, the Court of Appeals for the Seventh Circuit vacated defendant's sentence and remanded his case to give this court the opportunity to consider defendant's argument that the 1:1 crack/powder ratio should be applied. A resentencing hearing was held on April 13, 2012 and defendant's sentence was reduced to 150 months.

Under the new amendment, defendant's sentencing range can be reduced only two levels, which would drop his range to 188-235 months, well above his present sentence.

Because his sentence involved a variance and was not based on a sentencing range that has subsequently been lowered by the Sentencing Commission pursuant to 28 U.S.C. 994(o), defendant's motion for a modification of his sentence must be denied.

ORDER

IT IS ORDERED that defendant Ricky Petty's motion for a reduction in his sentence under 18 U.S. C. § 3852(c)(2), dkt. #211 is DENIED.

Entered this 6th day of November, 2015.

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