

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

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UNITED STATES OF AMERICA,

Plaintiff,

v.

FREDRICK A. CUNNINGHAM,

Defendant.  
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ORDER

98-CR-77-C-01

Defendant Fredrick A. Cunningham has written to the court to request a reduction of sentence of six to nine months if he successfully completes the DAP 500 hour drug and alcohol program. The motion must be DENIED.

First of all, the motion is premature because defendant has not enrolled in the program, much less completed it successfully. However, it must be denied for another reason as well. A sentencing court has no authority to reduce a sentence once the sentence has been imposed, unless the government moves within a year for a reduction of sentence, pursuant to Fed. R. Crim. P. 35(b), because of defendant's substantial assistance to the government or if the court of appeals remands the case to the sentencing judge for re-sentencing. Neither of these events has taken place in this case. Therefore, I would have no authority to reduce

defendant's sentence, even if he could show me that he had completed the program successfully.

ORDER

Defendant Fredrick A. Cunningham's motion for a reduction of sentence upon successful completion of the DAP program is DENIED.

Entered this 19th day of August, 2003.

BY THE COURT:

BARBARA B. CRABB  
District Judge