

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

DEMONTERRYO BLACK,

Defendant.

ORDER

04-cr-192-jcs

Defendant Demonterryo Black has filed a motion pursuant to 18 U.S.C. § 3582, seeking a modification of the sentence imposed upon him on April 29, 2005. In Judge Shabaz's absence for a medical leave, I am handling defendant's motion.

My review of defendant's file shows that he pleaded guilty to possessing more than five grams of cocaine base (crack cocaine) with intent to distribute it, in violation of 21 U.S.C. § 841(a)(1). Under the guidelines, defendant would have had a base offense level of 28, increased by two levels for possession of a firearm, but he was determined to be a career offender as defined in U.S.S.G. § 4B1.1(a). Once that determination was made, defendant's base offense level rose to 34 because the maximum statutory penalty for his crime was more than 25 years. § 4B1.1(b)(B).

Defendant now asks for a reduction in his sentence under Amendment 706 to the Sentencing Guidelines, which recalculates the sentencing ranges for crack cocaine offenses as they relate to the drug equivalency tables in U.S.S.G. § 2D1.1(c). Unfortunately for defendant, the amendment does not apply to him, because his sentence was determined by his status as a career offender and not by drug quantity. Therefore, I must deny his motion for a sentence reduction.

ORDER

IT IS ORDERED that defendant Demonterryo Black's motion for a sentence reduction under 18 U.S.C. § 3582 is DENIED.

Entered this 5th day of June, 2008.

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