

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

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UNITED STATES OF AMERICA,

ORDER

Plaintiff,

v.

05-cr-136-bbc

LARRY McGEE,

Defendant.  
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Defendant Larry McGee has filed a motion pursuant to 18 U.S.C. § 3582, seeking a modification of the amended sentence imposed upon him on January 4, 2006 and amended on May 2, 2007 and December 17, 2008. He also requests appointment of counsel.

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). At sentencing, defendant was determined to be a career offender as defined in U.S.S.G. § 4B1.1(a) but was sentenced based on his cocaine base (crack) drug quantity of 902.7 grams because the guidelines under U.S.S.G. § 2D1.1 were higher. Under

the most recent retroactive amendment to the cocaine base guidelines, defendant's base offense level for his drug quantity of 902.7 grams is the same result as under the career-offender guideline under U.S.S.G. § 4B1.1(b). Unfortunately for defendant, because the amendment does not affect defendant's career-offense level and his guideline range remains unchanged, he is not eligible for a reduction of his sentence.

ORDER

IT IS ORDERED that defendant Larry McGee's motions for a sentence reduction under 18 U.S.C. § 3582 and for appointment of counsel are DENIED.

Entered this 12th day of December, 2011.

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