

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

AUBREY L. MARSHALL,

Defendant.

ORDER

05-cr-153--bbc

Defendant Aubrey Marshall has filed a motion pursuant to 18 U.S.C. § 3582, seeking a modification of the sentence imposed upon him on December 29, 2005 and amended on December 18, 2006.

Defendant 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 had a base offense level of 34 and he was determined to be a career offender as defined in U.S.S.G. § 4B1.1(a). With a two-level adjustment for acceptance of responsibility and a one-level reduction based on the government's motion, his total offense level was 31.

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 Aubrey Marshall's motion for a sentence reduction under 18 U.S.C. § 3582 is DENIED.

Entered this 24th day of December, 2008.

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