

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOHN RADERMACHER,

Defendant.

ORDER

05-cr-39-bbc-1

Defendant John Radermacher moved for a sentencing reduction under 18 U.S.C. § 3582(c)(2). He is eligible for a reduction to the bottom of his new guideline range of 262 to 327 months, but he contends that he should be given a greater reduction to reflect the significant reduction he was given at his 2008 resentencing. At that time, defendant was before the court for resentencing after the Court of Appeals for the Seventh Circuit had remanded his case for reconsideration in light of Kimbrough v. United States, 552 U.S. 85 (2007). When defendant was first sentenced, he had been found to have an offense level of 42, with a criminal history score of IV. His sentence was 360 months, the bottom of his guideline range (360 months to life). On remand, his sentence was reduced by 60 months, to a term of 300 months.

With the recent reduction in the sentencing guidelines, defendant's revised total offense level is now 36; his criminal history category remains IV. His amended guideline

range is now 262 to 327 months. Defendant would like a reduced sentence considerably below 262 months to mirror the extensive reduction he received at his 2008 resentencing. Such a sentence might be appropriate for defendant, but it is beyond my authority. Under the guidelines, “proceedings under 18 U.S.C. § 3582(c)(2) and this policy statement do not constitute a full resentencing of the defendant.” U.S.S.G. § 1B1.10(a)(3). Section 3582 does not allow a court to reduce a defendant’s term of imprisonment under 18 U.S.C. § 3582(c)(1) “to a term that is less than the minimum of the amended guideline range determined under subdivision (1) of U.S.S.G. § 1B1.10(b)(2)(A) and (B)” unless the previous sentence included a downward departure for substantial assistance. In this case, the government made no motion for a downward departure for substantial assistance, which means that defendant’s sentence cannot be lower than the bottom of his amended guideline range.

ORDER

IT IS ORDERED that defendant John Radermacher’s motion for a reduction in his sentence under 18 U.S.C. § 3582(c)(1) is GRANTED in part; his sentence is reduced to 262 months, the bottom of his new guideline range; the motion for a further reduction is

DENIED.

Entered this 4th day of May, 2015.

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