

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

UNITED STATES OF AMERICA,

ORDER

Plaintiff,

v.

05-cr-85-bbc

MARK HURN,

Defendant.

Defendant Mark Hurn has moved for a sentencing reduction under 18 U.S.C. § 3582. He contends that because he was sentenced for possession with intent to distribute cocaine base (crack cocaine) and the guidelines for crimes involving distribution of crack cocaine have been lowered and given retroactive effect, he is entitled to a reduction in his sentence. He is mistaken.

Defendant was sentenced on September 29, 2006, to a term of imprisonment of 210 months. His sentence was based on a total offense level of 34. His guideline imprisonment range was 188 to 235 months. Defendant was held accountable for a drug quantity 452.65 grams of cocaine base (crack cocaine). In a previous § 3582 proceeding in April of 2009,

defendant was resentenced to 151 months based on an adjusted total offense level of 32 and a guideline imprisonment range of 151-188 months.

Under the most recent retroactive amendment, defendant's total offense level remains at 32. Because the amendment does not have the effect of lowering defendant's guideline range, relief under § 3582 is not authorized.

ORDER

Defendant Mark Hurn's motion for a reduction of sentence under 18 U.S.C. § 3582 is DENIED.

Entered this 6th day of March, 2012.

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