

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

-----  
UNITED STATES OF AMERICA,

Plaintiff,

v.

TIMOTHY CLARK,

Defendant.  
-----

ORDER

06-cr-126--bbc

Defendant Timothy Clark has filed a motion pursuant to 18 U.S.C. § 3582, seeking a modification of the sentence imposed upon him on February 2, 2007.

Defendant pleaded guilty to possessing 5 kilograms or more of cocaine and 50 grams or more of cocaine base, with intent to distribute it, in violation of 21 U.S.C. § 846 and 851 and possession of 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 36, 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 37 because the maximum statutory penalty for his crime was a term of imprisonment of life. § 4B1.1(b)(A).

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 Timothy Clark'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