

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

BRIAN K. BILLUPS,,

Defendant.

ORDER

06-cr-213-bbc

Defendant Brian K. Billups has moved for resentencing under 18 U.S.C. § 3582(c)(2), arguing that the 2014 amendment to the United States Sentencing Guidelines entitles him to a reduction in his sentence, as does the Fair Sentencing Act, which took effect in 2010. Unfortunately, defendant does not qualify for a sentencing reduction under either the Act or the 2014 amendments to the sentencing guidelines. The changes brought about by the recent guideline amendment do not apply to him because he was sentenced as a career offender. His sentence was based on the guidelines applicable to career offenders, not on the guidelines applicable to particular drug crimes. A district court may reduce a sentence if it was based originally on a sentencing range that has been released subsequently. Defendant's sentencing range as a career offender has not been lowered by the sentencing commission.

Defendant asks for sentencing relief under the Fair Sentencing Act, 124 Stat. 2372, which reduced the crack-to-powder sentencing disparities, but he is not eligible for any relief

under that Act. It applies only to persons who were sentenced for crack cocaine offenses after it took effect, which was August 3, 2010. Dorsey v. United States, 132 S. Ct. 2321 (2012); United States v. Foster, 706 F.3d 887, 888 (7th Cir. 2013). Defendant was sentenced before August 3, 2010, so his sentence is unaffected by the Act.

ORDER

IT IS ORDERED that defendant Brian K. Billups's motion for resentencing under 18 U.S.C. § 3582(c)(2), dkt. #47, is DENIED.

Entered this 29th day of October, 2015.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge