

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

UNITED STATES OF AMERICA,

ORDER

Plaintiff,

v.

07-cr-124-bbc

CURTIS POWELL,

Defendant.

In May 2009, defendant Curtis Powell moved for a sentencing reduction under 18 U.S.C. § 3582 and Amendments 706 and 711 to the Sentencing Guidelines. His motion was denied on July 21, 2009 because at the time he was sentenced on February 28, 2008, the new guidelines containing the reduction were already in effect and were applied to him. He was therefore not eligible for a second reduction.

On September 26, 2011, defendant moved again for a sentencing reduction, this time under the Fair Sentencing Act of 2010. In an order entered on March 1, 2012, I denied the motion because the amendment did not have the effect of lowering defendant's guideline range and because the Fair Sentencing Act does not apply retroactively to any defendant

sentenced before August 3, 2010. Dorsey v. United States, 2012 WL 2344463 (U.S. June 21, 2012). Defendant did not appeal the March 1, 2012 order or move for reconsideration.

Now defendant has filed another § 3582 motion, which I cannot consider. Under United States v. Redd, 630 F. 3d 649, 650 (7th Cir. 2011), once a judge makes a decision on a motion brought under § 3582, the judge is not authorized to amend the sentence in any way, unless the Sentencing Commission makes another change in the guidelines.

ORDER

Defendant Curtis Powell's motion for a reduction of sentence under 18 U.S.C. § 3582 is DENIED because the court lacks the authority to grant it.

Entered this 22d day of June, 2012.

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

