

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

UNITED STATES OF AMERICA,

ORDER

Plaintiff,

v.

07-cr-26-bbc

TIMOTHY HAMPTON,

Defendant.

Defendant Timothy Hampton 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 August 15, 2007, to a term of imprisonment of 328 months. His sentence was based on a total offense level of 35. His guideline imprisonment range was 292-365 months. Defendant qualified as a career offender but under U.S.S.G. § 4B1.1(b), he was sentenced based on his cocaine base (crack) drug quantity of 6.36

kilograms, because the drug guidelines under U.S.C.G. § 2D1.1 were higher.

On March 27, 2009, defendant was resentenced as a result of a motion by the government under Rule 35(b). At resentencing, defendant no longer qualified as a career offender because his prior escape conviction no longer met the requirements of a crime of violence under Chambers v. United States, 555 U.S. 122 (2009). His amended total offense level was 23 which resulted in an amended guideline range of 92-115 months. The court imposed a sentence of 115 months.

Under the most recent retroactive amendment, defendant's total offense level is 33. This result is higher than the guideline range applied at defendant's resentencing. Because the amendment does not have the effect of lowering defendant's guideline range, relief under § 3582 is not authorized.

ORDER

Defendant Timothy Hampton's motion for a reduction of sentence under 18 U.S.C.

§ 3582 is DENIED.

Entered this 6th day of April, 2012.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge