

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOHNNY BRUCE MATHEWS,

Defendant.

ORDER

08-cr-106-bbc

Defendant Johnny Bruce Mathews has written a letter to the court dated March 7, 2012, which I have construed as a motion for reconsideration of the court's March 1, 2012 order denying his motion under 18 U.S.C. § 3582. In his letter, defendant states that he did not intend his January 12 and January 19, 2012 letters to the court to be construed as motions for reduction of sentence under § 3582. He explains that he was requesting that the court appoint counsel to represent him in a motion under § 3582.

Defendant should know that his January 12, 2012 letter asking about the possibility of a sentence reduction was forwarded to the federal defender for review to determine whether defendant qualified for the reduction. Because defendant did not qualify for the reduction, the federal defender chose not to file a motion on his behalf. Thereafter, the

government filed its position confirming that defendant does not qualify for a reduction because at sentencing he received a statutory mandatory term of imprisonment of 20 years. That mandatory minimum is not affected by the amendment to the sentencing guidelines, which lowered and made retroactive the sentencing guideline ranges for certain offenses involving crack cocaine. It did not affect defendant's sentence because only Congress can reduce a statutory penalty. The Sentencing Commission's authority is limited to changes in guideline calculations.

On March 1, 2012 the court entered its order denying defendant's motions. Nothing in defendant's submission convinces me that it was error to construe his letters as a motion for reduction of sentence under 18 U.S.C. § 3582. He was appointed counsel, but the federal defender found no reason defendant could succeed on a motion under § 3582.

ORDER

IT IS ORDERED that defendant Johnny Bruce Mathews's motion for reconsideration of the March 1, 2012 order denying his modification of sentence under 18 U.S.C. § 3582

is DENIED.

Entered this 14th day of March, 2012.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge