

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

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UNITED STATES OF AMERICA,

Plaintiff,

v.

YARNELL FULLER,

Defendant.

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ORDER

09-cr-123-bbc

Defendant Yarnell Fuller has moved for a modification of his sentence under 18 U.S.C. § 3582. Defendant's motion will be denied because he does not qualify for a two-level reduction in his sentence under the recent guideline amendment.

When defendant was sentenced, he had a total offense level of 29 and a criminal history category of I. His guidelines range was 87-100 months as to count 1 of the indictment. Count 2 carried a statutory mandatory penalty of 5 years' imprisonment, which was to run consecutively to the sentence imposed in count 1. At sentencing, defendant received a variance, which resulted in a sentence of only 96 months.

Because defendant's sentence involved a variance and was not based on a sentencing range that has subsequently been lowered by the Sentencing Commission pursuant to 28 U.S.C. 994(o), defendant's motion for a modification of his sentence must be denied.

ORDER

IT IS ORDERED that defendant Yarnell Fuller's motion for a reduction in his

sentence under 18 U.S. C. § 3852(c)(2), dkt. #36, is DENIED.

Entered this 6th day of November, 2015.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge