

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

MICHAEL McDONALD,

Defendant.

ORDER

12-cr-161-bbc

Michael McDonald has written to the court asking for appointment of counsel to assist him in obtaining a reduction in his sentence under 18 U.S.C. § 3582(c)(2) and the recent amendment to the sentencing guidelines. Dkt. #34. His motion will be denied. Counsel would be of no assistance to him because he does not qualify for the two-level reduction under the recent guideline amendment.

When defendant was sentenced, he was in criminal history category III and his guidelines range was 210-240 months. (The range was capped at 240 months by the statutory cap of 20 years.) However, his sentence was only 96 months. Because his sentence 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 must be denied. (In any event, under the new amendment, his sentencing range could be reduced only two levels, which would take him to a range of 168-210 months, well above his present sentence.)

ORDER

IT IS ORDERED that defendant Michael McDonald's motion for a reduction in his sentence under 18 U.S. C. § 3852(c)(2) is DENIED.

Entered this 26th day of October, 2015.

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