

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

UNITED STATES OF AMERICA,

Plaintiff,

vs.

Case No. 99-40044-01-RDR

CECIL W. CHANDLER III,

Defendant.

O R D E R

On December 20, 2011, defendant filed a motion for reduction of sentence pursuant to Title 18 U.S.C. § 3582(c)(2). Doc. No. 133. The government filed a response to the motion on December 21, 2011. Doc. No. 135. The court denied defendant's motion with an order filed January 10, 2012. Doc. No. 136.

On January 19, 2012, the court received a "response to the government's response to movant's pro se motion for reduction of sentence." Doc. No. 137. The court shall treat this response as a motion for reconsideration of the court's January 10, 2012 order.

Defendant's reply or "response" to the government's response argues that he is entitled to a reduction in his sentence under the Apprendi line of cases. This argument is not relevant to the grounds for reducing a sentence under § 3582(c)(2). Furthermore, the argument has already been rejected as grounds for habeas relief in this case by the Tenth Circuit. Doc. No. 115 at p. 9 (denying defendant's request for a certificate of appealability regarding

this court's denial of defendant's motion to vacate sentence pursuant to 28 U.S.C. § 2255).

Finally, defendant makes reference to DePierre v. United States, 131 S.Ct. 2225 (2011). In DePierre, the Court concluded that "cocaine base" as used in 21 U.S.C. § 841(b)(a)(A)(iii) means cocaine in its chemically basic form, not exclusively "crack cocaine." This holding has nothing to do with the grounds for reducing a sentence under § 3582(c)(2) and provides no cause for the court to reconsider our ruling to deny defendant's motion for reduction of sentence under that statute.

In conclusion, the court has considered the arguments in defendant's response to the government's response to his motion for reduction of sentence. Treating the response as a motion for reconsideration, the motion shall be denied.

IT IS SO ORDERED.

Dated this 20th day of January, 2012 at Topeka, Kansas.

s/Richard D. Rogers
United States District Judge