

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF KANSAS**

United States of America,

Plaintiff,

v.

Case No. 03-20036-01-JWL

Deione M. Smith,

Defendant.

MEMORANDUM & ORDER

Deione Smith entered a plea of guilty to possession with intent to distribute 5 grams or more of crack cocaine. The court ultimately sentenced Ms. Smith to 151 months imprisonment. In October 2011, the court reduced Ms. Smith's sentence to time served pursuant to 18 U.S.C. § 3582(c)(2) and, in May 2013, granted Ms. Smith's motion for early termination of supervised release. This matter is now before the court on Ms. Smith's request that her arrest and conviction be "removed" from her "record." The motion is denied. While a federal court may grant expungement when a conviction has, in some manner, been invalidated, a court lacks the power to expunge a conviction in the absence of an allegation that the conviction was in any way improper. *United States v. Pinto*, 1 F.3d 1069, 1070-71 (10th Cir. 1993). Plaintiff does not assert that her conviction was in any way improper. *Pinto*, then, controls and the court is bound to follow it. *See Tokoph v. United States*, 774 F.3d 1300, 1305 (10th Cir. 2014) (Under *Pinto*, there is no applicable inherent equitable authority to grant expunction of a valid conviction.).

IT IS THEREFORE ORDERED BY THE COURT THAT Ms. Smith's motion for order (doc. 157) is denied.

IT IS SO ORDERED.

Dated this 4th day of May, 2017, at Kansas City, Kansas.

s/ John W. Lungstrum
John W. Lungstrum
United States District Judge