

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

United States of America,

Plaintiff,

v.

Case No. 04-20081-01-JWL

Maurice Montell Robinson,

Defendant.

MEMORANDUM & ORDER

Mr. Robinson entered a plea of guilty to three counts of distribution of cocaine base. Based on the drug quantities attributed to Mr. Robinson, the Presentence Investigation Report assigned Mr. Robinson a base offense level of 32. Because Mr. Robinson's drug trafficking involved a "protected location" under U.S.S.G. § 2D1.2, two levels were added, and because of Mr. Robinson's acceptance of responsibility under U.S.S.G. § 3E1.1, two levels were deducted. Mr. Robinson's adjusted offense level, then, was 32. But the PSR also categorized Mr. Robinson as a career offender under U.S.S.G. § 4B1.1 and assigned him a base offense level of 34 under the career offender guidelines. Mr. Robinson's acceptance of responsibility resulted in a two-level reduction under U.S.S.G. § 3E1.1, giving Mr. Robinson an adjusted offense level of 32 under the career offender guidelines. Thus, Mr. Robinson's adjusted offense level under § 2D1.1 and his adjusted offense level under § 4B1.1 were both 32. The PSR further placed Mr. Robinson in Criminal History Category VI, resulting in a guidelines range of 210 months to 262 months. On December 13, 2004, Mr. Robinson was sentenced to 240 months in prison. Mr.

Robinson has now filed a motion pursuant to 18 U.S.C. § 3582(c) to modify his sentence pursuant to Amendment 782. As will be explained, the motion is dismissed.

Federal courts, in general, lack jurisdiction to reduce a term of imprisonment once it has been imposed. *Freeman v. United States*, 131 S. Ct. 2685, 2690 (2011). “A district court does not have inherent authority to modify a previously imposed sentence; it may do so only pursuant to statutory authorization.” *United States v. Smartt*, 129 F.3d 539, 540 (10th Cir. 1997). Under limited circumstances, modification of a sentence is possible under 18 U.S.C. § 3582(c). That provision states that “a defendant who has been sentenced to a term of imprisonment based on a sentencing range that has subsequently been lowered by the Sentencing Commission” may be eligible for a reduction, “if such a reduction is consistent with applicable policy statements issued by the Sentencing Commission.” 18 U.S.C. § 3582(c)(2).

Mr. Robinson is not entitled to a sentence reduction pursuant to Amendment 782 because this amendment “does not have the effect of lowering the defendant’s applicable guideline range” as required in U.S.S.G. § 1B1.10(a)(2). According to U.S.S.G. § 1B1.10(b)(1), the district court “shall determine the amended guideline range that would have been applicable to the defendant if the amendment(s) to the guidelines . . . had been in effect at the time the defendant was sentenced.” *See United States v. Boyd*, 721 F.3d 1259, 1262 (10th Cir. 2013). While Amendment 782 would have the effect of reducing Mr. Robinson’s adjusted offense level under § 2D1.1, Amendment 782 has no effect on § 4B1.1. Thus, Mr. Robinson’s adjusted offense level under the career offender guidelines is not reduced and his adjusted offense level remains a 32 with a corresponding guideline range of 210 months to 262 months. *See* U.S.S.G. § 4B1.1(b) (“if the offense level for a career offender . . . is greater than the offense level

otherwise applicable, the [career offender] offense level . . . shall apply”). For these reasons, Amendment 782 does not provide any relief to Mr. Robinson and no reduction is authorized by the statute. *See United States v. Robinson*, 323 Fed. Appx. 676, 678-79 (10th Cir. 2009) (affirming this court’s conclusion that Mr. Robinson was not entitled to a reduction under Amendment 706 because a reduction of his offense level under § 2D1.1 triggered an application of the career offender provision of the guidelines such that his range remained unchanged).

IT IS THEREFORE ORDERED BY THE COURT THAT Mr. Robinson’s motion to reduce sentence (doc. 86) is dismissed.

IT IS SO ORDERED.

Dated this 24th day of July, 2015, at Kansas City, Kansas.

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