

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

CARLOS CERVANTES-SAMANIEGO,

Defendant.

Case No. 07-20099-JWL

MEMORANDUM AND ORDER

On April 20, 2012, the court denied defendant Carlos Cervantes-Samaniego's Motion for Modification of Term of Imprisonment on the merits (doc. 908).

For the reasons set forth in that Memorandum and Order, Mr. Cervantes-Samaniego is ineligible for relief pursuant to 18 U.S.C. § 3582(c)(2). As the facts establish that the defendant is ineligible for relief, the court is without jurisdiction to consider a reduction of sentence under § 3582(c). *United States v. Curtis*, 252 Fed. App'x 886, 887 (10th Cir. 2007) (Where the Amendment did not subsequently lower the defendant's Guideline range, the district court has no jurisdiction to consider a modification to his sentence under 18 U.S.C. § 3582(c)(2)). As such, the court's prior Order is amended *nunc pro tunc* to dismiss the defendant's Motion for Modification of Term of Imprisonment for lack of jurisdiction.

IT IS THEREFORE ORDERED BY THE COURT that defendant's Motion for Modification of Term of Imprisonment (doc. 886) is dismissed for lack of jurisdiction.

IT IS SO ORDERED this 25th day of May, 2012.

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