

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

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Case No: 09-20133-06-JWL
)	
MECHIEEN McDOWELL,)	
)	
Defendant)	

MEMORANDUM AND ORDER

On September 1, 2011, this court sentenced Mechieen McDowell to 108 months imprisonment. On July 2, 2013, McDowell filed a Pro Se motion (doc. 1577) requesting that the court file an Amended Judgment in which the court adds a recommendation that McDowell be allowed to apply for the Bureau of Prisons' 500 Hour Residential Drug Abuse Program (RDAP). For the reasons set forth below, the court denies the motion.

The court finds that it does not have the authority to amend the judgment on the basis sought by the defendant. Neither Fed. R. Crim. P. 35 (correction of sentence within 14 days of sentencing that resulted from arithmetical, technical, or other clear error), Fed. R. Crim. P. 36 (correction of sentence for clerical error), nor 18 U.S.C. § 3582 (discussing finality of judgment and exceptions) apply to the circumstances and relief sought by McDowell.

The court alternatively finds that if it had the authority to amend the judgment, it would deny the motion as moot on the basis that the court, through representatives of the U.S. Probation Office, has conducted an inquiry into the matter, and has been advised that McDowell has been screened for participation in the RDAP program, and has been ruled unqualified. Further, RDAP officials have advised that a judicial recommendation would not change McDowell's status for enrollment in the program.

IT IS SO ORDERED.

Dated this 11th day of July 2013, in Kansas City, Kansas.

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