

IN THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF KANSAS

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Case No. 10-10150-02-MLB
)	
KYANA L. PIPES,)	
)	
Defendant.)	

Memorandum and Order

Pipes pleaded guilty on January 21, 2011 to Uttering Counterfeit Obligations, in violation of 18 U.S.C. § 472. On April 7, 2011 she was sentenced to 10 months imprisonment. Pipes filed a Motion to Review Sentence which the Court denied. Pipes has now filed a Motion for Sentence Modification pursuant to Rule 35. (Doc. 99).

Congress has expressly authorized a federal district court to modify a defendant's sentence only in limited circumstances. United States v. Blackwell, 81 F.3d 945, 947 (10th Cir. 1996). The Court may modify a sentence when a statute permits it, or under Rule 35. 18 U.S.C. § 3582(c)(1).

Rule 35 authorizes the district court to reduce a defendant's sentence in two circumstances. First, within seven days after sentencing to correct a clerical error. Fed.R.Crim.P. 35(a). Or, "[U]pon the government's motion ... the court may reduce a sentence if the defendant... provided substantial assistance in investigating or prosecuting another person." Fed.R.Crim.P. 35(b)(1). Pipes filed her motion well past the seven day limitation period, and so the first section does not provide an opportunity for relief. See United States v. Green, 405 F.3d 1180, 1185 (10th Cir. 2005) ("Rule 35(a) provides a district court with jurisdiction to correct sentencing errors for only seven days after the court first orally sentenced a defendant.)

Rule 35(b) also does not provide an avenue of relief for Ms. Pipes. Because the motion was filed by Pipes, and not by the government, the district court is without authority to grant relief under Rule 35. See Blackwell, 81 F.3d at 948 (“subsection (b) applies only to motions made by the government, a defendant cannot invoke Rule 35(b) and empower the court to reduce his sentence.”)

The Court is without jurisdiction to modify Pipes’ sentence. The Motion for Sentence Modification is therefore dismissed.

IT IS SO ORDERED this 6th day of February, 2012.

s/ Monti Belot
Monti L. Belot
United States District Judge