

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

CARLOS NUNEZ,

Defendant.

Case No. 11-40047-04-JAR

ORDER

This matter is before the Court on Defendant Carlos Nunez's second Pro Se Motion for Modification and Reduction of Sentence Pursuant to 18 U.S.C. § 3582(c) and Amendment 782 to the Sentencing Guidelines (Doc. 1031). On December 3, 2016, the Court dismissed Mr. Nunez's first motion seeking a reduction of sentence on the same grounds.¹ As explained in that Order, on March 4, 2013, the Court sentenced Defendant to 120 months' imprisonment based solely on a binding plea agreement under Fed. R. Crim. P. 11(c)(1)(C), and thus Mr. Nunez is not eligible for relief under § 3582(c)(2) because the plea agreement called for a specific, agreed-upon sentence that was not "based on a sentencing range that has been subsequently been lowered by the Sentencing Commission."² The Court dismissed the first motion to reduce sentence for lack of jurisdiction.³ Mr. Nunez seeks the same relief in the instant motion and sets forth no grounds justifying reconsideration or amendment of the Court's previous Order. Accordingly, the Court likewise dismisses Mr. Nunez's second request to reduce sentence for lack of jurisdiction.

¹Doc. 1030.

²18 U.S.C. § 3582(c)(2); *United States v. Graham*, 704 F.3d 1275, 1278 (10th Cir. 2013).

³*United States v. Gray*, 630 F. App'x 809, 813 (10th Cir. 2015) (citing *United States v. White*, 765 F.3d 1240, 1250 (10th Cir. 2014)).

IT IS SO ORDERED.

Dated: August 23, 2017

S/ Julie A. Robinson
JULIE A. ROBINSON
UNITED STATES DISTRICT JUDGE