

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

<b>UNITED STATES OF AMERICA,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	<b>CRIMINAL ACTION</b>
<b>v.</b>	)	
	)	<b>No. 12-20141-13-KHV</b>
<b>DAMIAN MAYS,</b>	)	
	)	
<b>Defendant.</b>	)	

**MEMORANDUM AND ORDER**

On May 15, 2014, the Honorable Scott W. Skavdahl sentenced defendant to 220 months in prison. On August 24, 2015, under 18 U.S.C. § 3582(c)(2), the Court reduced defendant's sentence to 176 months in prison. This matter is before the Court on defendant's pro se Motion For Reduction Of Sentence Pursuant To 18 U.S.C. § 3582(c)(2) (Doc. #1265) filed April 2, 2024. For reasons stated below, the Court dismisses defendant's motion.

A federal district court may modify a defendant's sentence only where Congress has expressly authorized it to do so. See 18 U.S.C. § 3582(b)–(c); United States v. Blackwell, 81 F.3d 945, 947 (10th Cir. 1996). Defendant seeks relief under Section 3582(c)(2), which permits the Court to reduce a sentence if defendant has been sentenced to a term of imprisonment “based on a sentencing range that has subsequently been lowered by the Sentencing Commission pursuant to 28 U.S.C. 994(o).” 18 U.S.C. § 3582(c).

Defendant argues that he is entitled to relief under Section 3582(c)(2) because Amendment 821 to the United States Sentencing Guidelines does not include criminal history points for status offenses, i.e. offenses which a defendant commits while under another criminal justice sentence. See U.S.S.G. § 4A1.1(e) (Nov. 1, 2023 ed.) (adding one criminal history point

for offenses committed while under another criminal justice sentence and only if defendant otherwise has at least seven criminal history points). The Sentencing Commission voted to apply the amendment retroactively to offenders who are currently incarcerated. U.S.S.G. § 1B1.10(d). Even so, at sentencing, defendant did not receive any criminal history points for status offenses. See Presentence Investigation Report (Doc. #678) filed May 8, 2015, ¶¶ 97–100. Accordingly, the Court dismisses defendant’s motion to reduce sentence.

**IT IS THEREFORE ORDERED** that defendant’s pro se Motion For Reduction Of Sentence Pursuant To 18 U.S.C. § 3582(c)(2) (Doc. #1265) filed April 2, 2024 is **DISMISSED**.

Dated this 18th day of April, 2024 at Kansas City, Kansas.

s/ Kathryn H. Vratil  
KATHRYN H. VRATIL  
United States District Judge