IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

UNITED STATES, **Plaintiff,** **v.** **SERGIO LEYVA-PALOMINO,** **Defendant.**	**Case No. 13-10018-02-**JWB

MEMORANDUM AND ORDER

This matter comes before the court on Defendant's motion for a sentence reduction. (Doc. 84.) The government opposes the motion. (Doc. 86.)[1] For the reasons stated herein, Defendant's motion is DENIED.

I. Facts and Procedural History

On January 29, 2013, Defendant was charged by indictment with two counts of distribution of a controlled substance under 21 U.S.C. § 841(1)(a) and seven counts of unlawful use of a communication device under 21 U.S.C. § 843(b). (Doc. 1.) On September 9, 2020, Defendant pleaded guilty to one count of distribution of a controlled substance. (Doc. 58.) According to the plea agreement, Defendant delivered methamphetamine to an undercover officer in a quantity in excess of 50 grams actual methamphetamine. A presentence report was ordered after the guilty plea. On May 4, 2021, Defendant was sentenced to 120 months imprisonment. (Doc. 68.)

Defendant moves for a sentence reduction on the basis that there has been a change to the sentencing guidelines that would impact the sentence.

II. Analysis

[1] Defendant failed to file a reply and the time for doing so has now passed.

"A district court does not have inherent authority to modify a previously imposed sentence; it may do so only pursuant to statutory authorization." *See United States v. Mendoza*, 118 F.3d 707, 709 (10th Cir. 1997). Section 3582 allows for a possible sentence reduction for a defendant "who has been sentenced to a term of imprisonment based on a sentencing range that has subsequently been lowered by the Sentencing Commission." *See* 18 U.S.C. § 3582(c)(2).

Here, Defendant has moved for a sentence reduction due to a change in the guidelines for certain non-violent drug offenders. Defendant, however, fails to identify the guideline provision at issue. Notably, this court has previously rejected Defendant's motion for a reduction based on Amendment 833 as it was not identified by the Sentencing Commission as a retroactive amendment in the policy statement. (Doc. 81.) This court has also rejected Defendant's motion for a reduction based on Amendment 821. (Doc. 77.) To the extent Defendant relies on those provisions, he is not entitled to relief for the reasons previously stated.

III. Conclusion

As Defendant has not identified authority which would allow a sentence reduction, his motion (Doc. 84) is DENIED FOR LACK OF JURISDICTION.

IT IS SO ORDERED.

Dated: August 18, 2026

s/ John W. Broomes
JOHN W. BROOMES
CHIEF UNITED STATES DISTRICT JUDGE