

Defendant asks the Court to modify and reduce his sentence upon consideration of his family circumstances. Defendant explains that his mother is being treated for cancer, leaving no one to care for his disabled brother outside his group home; that his ex-wife struggles with depression; and that his young son has developed behavior problems in light of his father's incarceration. Defendant cites to his good behavior while incarcerated, and expresses that home confinement would save the government money and resources while alleviating his family's suffering.

"Federal courts generally lack jurisdiction to modify a term of imprisonment once it has been imposed."⁵ As the Tenth Circuit explained:

A district court is authorized to modify a Defendant's sentence only in specified instances where Congress has expressly granted the court jurisdiction to do so. Section 3582(c) of Title 18 of the United States Code provides three avenues through which the court may "modify a term of imprisonment once it has been imposed." A court may modify a sentence: (1) in certain circumstances "upon motion of the Director of the Bureau of Prisons"; (2) "to the extent otherwise expressly permitted by statute or by Rule 35 of the Federal Rules of Criminal Procedure"; or (3) "upon motion of the defendant or the Director of the Bureau of Prisons," or on the court's own motion in cases where the applicable sentencing range "has subsequently been lowered by the Sentencing Commission."⁶

If a defendant's argued basis does not fall within one of these three limited avenues under § 3582(c), the Court is without jurisdiction to consider the defendant's request.⁷ None of the avenues set forth above apply to this case. Although the Court is sympathetic to the

⁵*United States v. Graham*, 704 F.3d 1275, 1277 (10th Cir. 2013).

⁶*United States v. Blackwell*, 81 F.3d 945, 947–48 (10th Cir. 1996) (citations and footnote omitted).

⁷*United States v. Smartt*, 129 F.3d 539, 541 (10th Cir. 1997).

circumstances of Defendant's family since his conviction, it finds that it does not have the power to reduce his sentence. Defendant's motion must be dismissed for lack of jurisdiction.

IT IS THEREFORE ORDERED BY THE COURT that the Government's Motion to Dismiss Defendant's Motion to Reduce Sentence (Doc. 223) is GRANTED; Defendant's Motion (Doc. 222) is DISMISSED for lack of jurisdiction.

IT IS SO ORDERED.

Dated: April 12, 2016

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