

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 14-CR-10123-JTM-1

KENT MISAK,

Defendant.

MEMORANDUM AND ORDER

Before the court is defendant Kent Misak's letter to the undersigned judge asking that his sentence be reduced or modified to home confinement so that "[he] can take care of [his] ill mom [and] sister." (Dkt. 71). Mr. Misak advises that his mom is having mini-strokes and his sister, who resides with her, has COPD. Because Mr. Misak is pro se, the court construes his letter as a motion for reduction of sentence under 18 U.S.C. § 3582(c). Although the court is sympathetic to Mr. Misak's family circumstances, the court lacks the power to reduce his sentence for this reason. *United States v. Graham*, 704 F.3d 1275, 1277 (10th Cir. 2013) ("Federal courts generally lack jurisdiction to modify a term of imprisonment once it has been imposed."); *United States v. Sloan*, Case No. 13-40025-03-JAR, 2016 WL 1434740 (April 12, 2016) (dismissing motion to reduce sentence based on family circumstances for lack of jurisdiction).

Section 3582(c) authorizes a court to modify a sentence in three limited instances: 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) in cases where the applicable sentencing range "has subsequently been lowered

by the Sentencing Commission.” Because family hardship does not fall within one of these three limited instances, the court lacks jurisdiction to consider this request.

IT IS THEREFORE ORDERED that Mr. Misak’s motion to reduce sentence (Dkt. 71) is DISMISSED for lack of jurisdiction.

IT IS SO ORDERED this 10th day of May 2016.

s/ J. Thomas Marten
J. THOMAS MARTEN, Judge