

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

DIONATA WASHINGTON,

Defendant.

Case No. 20-20048-JAR

MEMORANDUM AND ORDER

On February 22, 2021, Defendant Dionata Washington pleaded guilty under a Fed. R. Civ. P. 11(c)(1)(C) plea agreement, to one count of using and possessing firearms in furtherance of a drug trafficking crime, in violation of 18 U.S.C. §§ 924(c) and 2.¹ On June 1, 2021, this Court accepted the binding plea agreement, and sentenced Defendant to 60 months' imprisonment.² At Defendant's request, the Court recommended that Defendant be considered for designation to FCC Forest City, Arkansas to facilitate family visits.³ He is currently incarcerated at the Federal Correctional Institution in Thomson, Illinois.

This matter is now before the Court on Defendant's *pro se* Motion Requesting a Judicial Recommendation for Maximum Halfway House Placement (Doc. 40). In this motion, Defendant asks the Court to make a recommendation to the Bureau of Prisons ("BOP") under the Second Chance Act that Defendant receive a twelve-month placement in a residential re-entry center ("RRC") at the conclusion of his sentence currently set for March 2025. The Court construes this request as a motion to amend the judgment or, in the alternative, for a supplemental

¹ Doc. 33

² Doc. 38.

³ Docs. 37, 38.

recommendation by the Court made outside of the judgment concerning RRC placement.⁴ As explained below, Defendant’s motion is denied.

First, the Court has no authority or basis to amend the judgment. “A district court does not have inherent authority to modify a previously imposed sentence; it may do so only pursuant to statutory authorization.”⁵ The Tenth Circuit has explained that there are three exceptions under 18 U.S.C. § 3582:

(1) compassionate release; (2) “to the extent otherwise expressly permitted by statute or by Rule 35 of the Federal Rules of Criminal Procedure;” and (3) when “a sentencing range . . . has subsequently been lowered by the Sentencing Commission pursuant to 28 U.S.C. § 994(o) . . . after considering the factors set forth in section 3553(a) to the extent that they are applicable, if such a reduction is consistent with applicable policy statements issued by the Sentencing Commission.”⁶

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

Second, the Court declines to exercise its discretion to make a supplemental recommendation outside the judgment concerning RRC placement. The Court previously made its recommendations at sentencing based on Defendant’s circumstances. Defendant offers no

⁴ See *United States v. McMillon*, No. 15-40064-05-DDC, 2017 WL 5904052, at *1 (D. Kan. Nov. 30, 2017) (construing the defendant’s motion requesting transfer to RRC as a motion to amend the judgment, or, in the alternative, for a supplemental recommendation by the court made outside of the judgment concerning RRC); *United States v. Grant*, No. 14-CR-296-FL-1, 2017 WL 2799851, at *1 (E.D.N.C. June 28, 2017) (construing the defendant’s motion for recommendation concerning length of RRC, halfway house, or home confinement placement time as a motion to amend the judgment, or, alternative, for a supplemental recommendation by the court made outside of the judgment concerning RRC or halfway house placement).

⁵ *United States v. Mendoza*, 118 F.3d 707, 709 (10th Cir. 1997).

⁶ *United States v. Warren*, 22 F.4th 917, 922 (10th Cir. 2022) (quoting 18 U.S.C. § 3582(c)(1)(B) and (c)(2)) (citing 18 U.S.C. § 3582(c)(1)(A)–(c)(2)).

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

information that would warrant a supplemental recommendation to the BOP.⁸ Moreover, even if the Court were inclined to make the requested recommendation, it would not be binding on the BOP,⁹ which has its own policies that will identify whether Defendant is eligible for RRC placement.¹⁰ Accordingly, the Court does not have the authority to amend or supplement its recommendation to the BOP as requested, and Defendant's motion must be denied.

IT IS THEREFORE ORDERED BY THE COURT that Defendant's Motion Requesting a Judicial Recommendation for Maximum Halfway House Placement (Doc. 40) is **denied.**

IT IS SO ORDERED.

Dated: April 26, 2024

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

⁸ See *McMillon*, 2017 WL 5904052, at *2 (declining to make supplemental RRC recommendations based on defendant's participation in prison sports program and RDAP); *Grant*, 2017 WL 2799851, at *1 (declining to make supplemental RRC recommendation because the court carefully considered multiple factors bearing on defendant's incarceration at sentencing).

⁹ See 18 U.S.C. § 3621(b) ("Any order, recommendation, or request by a sentencing court that a convicted person serve a term of imprisonment in a community corrections facility shall have no binding effect on the authority of the Bureau under this section to determine or change the place of imprisonment of that person.").

¹⁰ See U.S. Dep't of Justice, Fed. Bureau of Prisons, Program Statement 7310.04, Cmty. Corr. Ctr. (CCC) Utilization and Transfer Procedures (1998).