

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA,

v.

DARRELL THOMAS,

Defendant.

CRIMINAL ACTION NO.
1:20-CR-00296-JPB-CMS-1

ORDER

This matter is before the Court on Darrell Thomas’s (“Defendant”) Pro Se Motion for Reduction of Sentence [Doc. 1156]. This Court finds as follows:

BACKGROUND

On August 4, 2020, a federal grand jury returned an indictment charging Defendant with several fraud offenses. [Doc. 1]. On June 16, 2021, Defendant pled guilty to Counts 1 and 18 for bank and wire fraud. [Doc. 127]. On May 23, 2022, this Court sentenced Defendant to a total term of 180 months of incarceration followed by a term of supervised release. [Doc. 475, pp. 2–3].

On April 15, 2024, Defendant filed the instant motion to request a sentence reduction under Amendment 821 to the United States Sentencing Guidelines Manual. [Doc. 969]. In his motion, Defendant argues that he is eligible for a two-point sentence reduction under Part B of Amendment 821. See id. The

Government filed a Response on December 30, 2024, arguing that Defendant is ineligible for a reduction in his sentence because he received an upward adjustment. [Doc. 155, p. 2].

ANALYSIS

“[A] motion to modify an otherwise final judgment pursuant to [18 U.S.C. § 3582(c)(2)] is a limited and narrow exception to the rule that final judgments are not to be modified.” United States v. Armstrong, 347 F.3d 905, 909 (11th Cir. 2003). Indeed, § 3582(c)(2) provides:

[I]n the case of 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 . . . , the court may reduce the term of imprisonment, 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.

Thus, under § 3582(c)(2), the Court must undertake a two-step process to determine whether a final sentence should be modified based on a sentencing range that has been lowered by the Sentencing Commission. First, the Court must determine if a retroactive amendment lowers a defendant’s guidelines range and whether a reduction is consistent with the applicable policy statements. Second, the Court must consider the § 3553(a) factors to determine if it will exercise its discretion to reduce a defendant’s sentence.

Defendant invokes Part B to Amendment 821, which provides a two-offense-level reduction for individuals that have zero criminal history points and meet ten other requirements. On February 1, 2024, the U.S. Sentencing Commission made this change retroactive. See U.S.S.G. § 1B1.10(e)(2) (Nov. 1, 2023). Significantly, the Amendment provides for a reduction only if “the defendant did not receive an upward adjustment under § 3B1.1.” Here, Defendant received an upward adjustment under § 3B1.1(a) for his central role in the crime. See [Doc. 603, p. 10]. Thus, he does not qualify for a reduction under Part B of Amendment 821. Because Defendant fails to meet the first requirement for a reduction in sentence, the Court will not perform an analysis of the § 3553(a) factors as applied to Defendant’s request for a reduction in sentence.

CONCLUSION

For the reasons stated above, Defendant’s Pro Se Motion for Reduction of Sentence [Doc. 1156] is **DENIED**.

SO ORDERED this 2nd day of January, 2025.



J. P. BOULEE
United States District Judge