

UNPUBLISHED ORDER
Not to be cited per Circuit Rule 53

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

Submitted February 9, 2009

Decided February 9, 2009

Before

Hon. RICHARD A. POSNER, *Circuit Judge*

Hon. JOEL M. FLAUM, *Circuit Judge*

Hon. ILANA D. ROVNER, *Circuit Judge*

UNITED STATES OF AMERICA
Plaintiff-Appellee,

No. 08-2371

JESSE J. JOHNSON,
Defendant-Appellant.

Appeal from the United States
District Court for the Northern
District of Illinois, Eastern Division.

No. 00 CR 142

Elaine E. Bucklo,
Judge.

ORDER

Jesse Johnson pleaded guilty to possession of cocaine and crack cocaine with intent to distribute, and was sentenced to 188 months imprisonment. On March 14, 2002, this Court affirmed Johnson's conviction and sentence. A few years later, the defendant filed a *pro se* motion to reduce his sentence under 18 U.S.C. § 3582(c)(2) in light of the Sentencing Commission's retroactive amendments to the crack cocaine guidelines. In his motion, Johnson

claimed that the district court had authority to reduce his sentence below the two offense-level reduction authorized by the Sentencing Commission. The district court rejected defendant's contention in this regard, reducing Johnson's sentence only by the two levels allowed in the retroactive amendments. Johnson now appeals.

Our recent opinion in *United States v. Cunningham*, No. 08-2901 (7th Cir. Feb. 4, 2009) dealt with this same issue. In that case, we concluded that, with an exception not relevant here, district courts do not have authority to reduce a defendant's sentence under § 3582(c)(2) to a sentence lower than the retroactive Guideline amendment range. We adopt the reasoning and holding of that case, and therefore **AFFIRM** the judgment of the district court.