

NONPRECEDENTIAL DISPOSITION

To be cited only in accordance with FED. R. APP. P. 32.1

United States Court of Appeals

**For the Seventh Circuit
Chicago, Illinois 60604**

Submitted October 16, 2023*

Decided October 17, 2023

Before

FRANK H. EASTERBROOK, *Circuit Judge*

AMY J. ST. EVE, *Circuit Judge*

THOMAS L. KIRSCH II, *Circuit Judge*

No. 23-1726

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

Appeal from the United States District
Court for the Central District of Illinois.

v.

No. 12-cr-30003-001

PATRICK B. WALLACE,
Defendant-Appellant.

Sara Darrow,
Chief Judge.

ORDER

Patrick Wallace, a federal prisoner, moved to reduce his sentence under 18 U.S.C. § 3582(c)(2) based on the retroactive application of Amendment 782 to the United States Sentencing Guidelines. The district court denied his motion, ruling that Amendment 782 did not lower his guidelines range. Because the district court correctly ruled that Wallace was ineligible for a sentence reduction, we affirm.

* We have agreed to decide the case without oral argument because the briefs and record adequately present the facts and legal arguments, and oral argument would not significantly aid the court. FED. R. APP. P. 34(a)(2)(C).

A jury found Wallace guilty of possessing with intent to distribute 280 or more grams of crack cocaine. 21 U.S.C. § 841(a)(1), (b)(1)(A) (2010). The district court assessed Wallace's guidelines sentence at 240 months—the statutory minimum—based on an enhancement under 21 U.S.C. § 851 for a prior felony drug conviction. (Under U.S.S.G. § 5G1.1(b), the statutory minimum becomes the guidelines sentence if it exceeds the otherwise applicable guidelines range, which here was 188 to 235 months.) The court sentenced him to an above-guidelines term of 288 months' imprisonment. We affirmed the judgment. *United States v. Wallace*, 753 F.3d 671 (7th Cir. 2014).

About ten years after sentencing, Wallace moved to reduce his sentence under 18 U.S.C. § 3582(c)(2). He argued that Amendment 782 to the Sentencing Guidelines, which retroactively lowered the base offense level for drug offenses, qualified him for a shorter sentence. *See* U.S.S.G. Supp. to App. C, Amend. 782 (2014); U.S.S.G. § 1B1.10. The district court denied the motion, explaining that he was not eligible for a sentence reduction because his guidelines sentence was based on the statutory minimum, *see* U.S.S.G. § 5G1.1(b), and thus was not lowered by Amendment 782.

Wallace challenges that ruling on appeal, but the district court was correct. A district court may reduce a sentence under § 3582(c)(2) only if the defendant was sentenced "based on a sentencing range that has subsequently been lowered by the Sentencing Commission." 18 U.S.C. § 3582(c)(2); *see Koons v. United States*, 138 S. Ct. 1783, 1788 (2018). But Wallace was sentenced based on the statutory minimum, which has not been lowered by the Commission. *See* U.S.S.G. § 1B1.10 cmt. n.1(A) (defendant ineligible for sentence reduction if guidelines sentence based on statutory minimum).

Wallace alternatively argues that another amendment to the guidelines—Amendment 780—instructs district courts to determine eligibility for a sentence reduction "without regard to the operation of § 5G1.1," the provision that set the statutory minimum as his guidelines sentence. *See* U.S.S.G. Supp. to App. C, Amend. 780 (2014); U.S.S.G. § 1B1.10(c). But Amendment 780 does not apply to Wallace. It applies only if the court "had the authority to impose a sentence below the statutorily required minimum sentence pursuant to a government motion to reflect the defendant's substantial assistance." U.S.S.G. Supp. to App. C, Amend. 780 (2014). Wallace did not provide substantial assistance, and so the court here did not have that authority.

AFFIRMED