

United States Court of Appeals
For the Eighth Circuit

No. 15-2601

United States of America

Plaintiff - Appellee

v.

Thomas Harry Finley

Defendant - Appellant

Appeal from United States District Court
for the Northern District of Iowa - Cedar Rapids

Submitted: December 24, 2015

Filed: January 12, 2016

[Unpublished]

Before LOKEN, BOWMAN, and COLLOTON, Circuit Judges.

PER CURIAM.

Thomas Finley appeals after the District Court¹ denied him a sentence reduction under 18 U.S.C. § 3582(c)(2). In 2011, Finley pleaded guilty to conspiring

¹The Honorable Linda R. Reade, Chief Judge, United States District Court for the Northern District of Iowa.

to distribute 100 or more grams of heroin, 21 U.S.C. §§ 841(a)(1), (b)(1)(B); 846. In a written, nonbinding plea agreement, the parties stipulated that one individual had died as a result of using heroin distributed by Finley and that a 6-level upward departure to the U.S. Sentencing Guidelines base-offense level was warranted under U.S.S.G. § 5K2.1 (permitting a sentence above the authorized range “[i]f death resulted”). The District Court imposed a 14-level upward departure under § 5K2.1 based on evidence that two victims had died as a result of using heroin that Finley distributed; calculated a Guidelines range of 210–262 months; and sentenced Finley to 262 months in prison. In March 2015, the District Court sua sponte considered the applicability of Guidelines Amendment 782 (lowering by 2 levels certain base-offense levels for drug offenses) to Finley’s case and declined to reduce the sentence. The court indicated that it would have imposed the same sentence even with the 2-level reduction in base-offense level. On appeal, Finley argues that the District Court abused its discretion by failing to reduce his sentence.

We hold that the District Court did not abuse its discretion in denying a sentence reduction under § 3582(c)(2). See United States v. Anderson, 707 F.3d 973, 974 (8th Cir. 2013) (per curiam) (standard of review). We affirm the judgment, grant counsel’s motion to withdraw, and deny as moot Finley’s motion for appointment of counsel.