

United States Court of Appeals  
For the Eighth Circuit

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No. 17-2510

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United States of America

*Plaintiff - Appellee*

v.

Tracy J. Yost

*Defendant - Appellant*

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Appeal from United States District Court  
for the Western District of Missouri - Kansas City

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Submitted: November 15, 2017

Filed: November 30, 2017

[Unpublished]

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Before WOLLMAN, BOWMAN, and LOKEN, Circuit Judges.

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PER CURIAM.

Tracy Yost appeals the district court's<sup>1</sup> order denying his 18 U.S.C. § 3582(c)(2) motion for a sentence modification based on Amendment 801 to the Guidelines.

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<sup>1</sup>The Honorable Stephen R. Bough, United States District Judge for the Western District of Missouri.

Having reviewed the record, we affirm on the basis of the district court's statement in footnote 4 of its order, which indicated that even if Amendment 801 were to be given retroactive effect, the court would decline to modify Yost's sentence, because--consistent with the court's explanation at the time of Yost's sentencing--the court viewed the sentence as appropriate after considering the 18 U.S.C. § 3553(a) factors. See 18 U.S.C. § 3582(c)(2) (setting forth circumstances under which court may reduce defendant's prison term); see also Spirtas Co. v. Nautilus Ins. Co., 715 F.3d 667, 670-71 (8th Cir. 2013) (this court may affirm on any basis supported by record); cf. United States v. Hansen, 859 F.3d 576, 577-78 (8th Cir. 2017) (on direct appeal, affirming sentence that was inconsistent with Amendment 801; concluding that any error would have been harmless in light of district court's explanation of sentence imposed). We express no opinion as to the other aspects of the district court's order. The denial of relief is affirmed.

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