

NONPRECEDENTIAL DISPOSITION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 March 18, 2009

Decided April 13, 2009

Before

WILLIAM J. BAUER, *Circuit Judge*

ILANA DIAMOND ROVNER, *Circuit Judge*

TERENCE T. EVANS, *Circuit Judge*

No. 08-3955

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

MARVIN DUMES,
Defendant-Appellant.

Appeal from the United States District
Court for the Southern District of
Indiana, Indianapolis Division.

No. 99 CR 59

Larry J. McKinney, *Judge.*

ORDER

Marvin Dumes pled guilty to a 1999 indictment charging him (and 21 others) with conspiracy to possess cocaine and cocaine base with intent to distribute. His guideline range was 151 to 188 months. The sentence he received was 170 months. His appeal to us was unsuccessful. United States v. Dumes, 313 F.3d 372 (7th Cir. 2002).

In 2008, Dumes filed a motion in the district court to reduce his sentence pursuant to 18 U.S.C. § 3582(c)(2). The motion was denied and Dumes appeals.

In denying the motion, the district court said: "As directed by 18 U.S.C. § 3582(c)(2), the Court has considered the relevant factors and determined the defendant is not eligible for a reduction."

The district court's decision was correct because Dumes's sentence was not based on a sentencing range that was reduced by the amendment to the guideline provisions regarding crack cocaine. While Dumes participated in a conspiracy that involved the distribution of powder cocaine and crack cocaine, he was sentenced based on the sentencing guidelines for powder cocaine. Thus, the district court did not err in denying Dumes's § 3582 motion because Dumes is ineligible for a reduction under the amendments to § 3582.

The judgment of the district court is AFFIRMED.