

**United States Court of Appeals
FOR THE EIGHTH CIRCUIT**

No. 08-2282

United States of America,

*

*

Appellee,

*

v.

*

Appeal from the United States

*

District Court for the

*

District of Nebraska.

Billy D. Davis, also known as

*

Lil Spook,

*

[UNPUBLISHED]

*

Appellant.

*

Submitted: January 20, 2010

Filed: February 4, 2010

Before BYE, RILEY, and SHEPHERD, Circuit Judges.

PER CURIAM.

Billy Davis appeals following the district court's¹ reduction of his sentence pursuant to 18 U.S.C. § 3582(c)(2) and the amendments to the Guidelines related to cocaine base or crack cocaine. Davis was originally sentenced at the bottom of his then-applicable Guidelines range. In resentencing Davis in light of the crack cocaine amendments, the district court reduced Davis's sentence to the bottom of the revised Guidelines range. On appeal, Davis contends that the court should have recalculated

¹The Honorable Laurie Smith Camp, United States District Judge for the District of Nebraska.

his criminal history category in light of Guidelines Amendment 709, and that the court should have imposed a sentence below the revised Guidelines range.

Upon careful review, we find no error. See United States v. Starks, 551 F.3d 839, 843 (8th Cir.) (where defendant was originally sentenced within applicable Guidelines range and in § 3582(c)(2) proceeding received sentence at bottom of amended Guidelines range, defendant was not entitled to further reduction based on § 3553(a) factors), cert. denied, 129 S. Ct. 2746 (2009); United States v. Peters, 524 F.3d 905, 907 (8th Cir.) (per curiam) (Amendment 709 is not listed amendment to which retroactive treatment may be given), cert. denied, 129 S. Ct. 290 (2008). Accordingly, we affirm.
