

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

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No. 09-2135

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United States of America,

Appellee,

v.

Ashley Nehemiah Scaife,

Appellant.

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Appeal from the United States  
District Court for the  
District of Minnesota.

[UNPUBLISHED]

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Submitted: October 19, 2009

Filed: October 26, 2009

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Before WOLLMAN, MURPHY, and BYE, Circuit Judges.

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PER CURIAM.

In 2003, Ashley Scaife received a sentence of 188 months after pleading guilty to conspiracy to possess and distribute more than fifty grams of cocaine base (commonly known as "crack") in violation of 21 U.S.C. §§ 841(a)(1) and 846. On March 11, 2009, Scaife brought a motion under 18 U.S.C. § 3582(c) for a reduction in his sentence pursuant to a guidelines amendment (Amendment 706) which reduced the advisory base offense level for crack offenses by two levels. He also asked the district court<sup>1</sup> to conduct a full resentencing in order to weigh all the factors set forth

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<sup>1</sup>The Honorable Michael J. Davis, Chief Judge, United States District Court for the District of Minnesota.

in 18 U.S.C. § 3553(a) in support of a greater sentence reduction. The district court calculated an amended advisory guidelines range of 151-188 months and resented Scaife to 151 months, rejecting his request for a full resentencing.

Scaife appeals, arguing the district court had authority to conduct a full resentencing and erred by not doing so. He acknowledges his argument is foreclosed by United States v. Starks, 551 F.3d 839, 843 (8th Cir. 2009) (concluding district courts do not have authority, in resentencing proceedings resulting from the crack cocaine amendments, to conduct full resentencings or grant reductions beyond the two-level decrease authorized by the Sentencing Commission), but brings this appeal in order to preserve the issue for further review.

In light of Starks, we affirm the judgment of the district court.

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