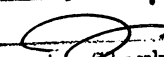


U. S. DISTRICT COURT
Southern District of Ga.

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

Filed in Office

M.
11/12/2017


Deputy Clerk

UNITED STATES OF AMERICA)
)
v.)
)
ANDRE CHRISTOPHER MYERS,)
)
Defendant.)
_____)

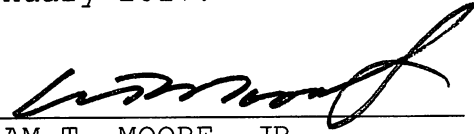
CASE NOS. CV413-221
CR495-123

O R D E R

Before the Court is Defendant Andre Christopher Myers's Motion to Mitigation and/or Correct Sentence. (Doc. 29.) In his motion, Defendant requests that the Court "correct [his] sentence pursuant to [Federal Rules of Criminal Procedure] 35 and 36 . . . because of the vacated prior [conviction] that no longer exists." (Id. at 1.) However, Federal Rule of Criminal Procedure 35 only permits the Court to correct arithmetic, technical, or other clear errors to sentences within 14 days from the date of sentence. As a result, Rule 35 provides no relief because Defendant was sentenced on January 10, 1996—over 21 years ago. (CR495-123, Doc. 593.) Additionally, Rule 36 permits only clerical corrections, not alterations to a criminal judgment that affect how a sentence is calculated. See United States v. Pease, 331 F.3d 809, 816 (11th Cir. 2003) ("Rule 36 can be used to correct "clerical" errors; it

cannot be used . . . to make a substantive alteration to a criminal sentence."). For these reasons, Defendant's motion must be **DENIED**.

SO ORDERED this 12th day of January 2017.



WILLIAM T. MOORE, JR.
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA