

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

**MEMORANDUM AND ORDER**

Before the Court is the motion of Tiffany Wicker to vacate, set aside, or correct sentence, pursuant to 28 U.S.C. § 2255. For the reasons set forth below, the Court will interpret movant's motion as one for a reduction in sentence and transfer her motion to her criminal case for full briefing.

On October 21, 2015, movant pled guilty to possession of pseudoephedrine knowing it would be used to manufacture methamphetamine, in violation of 21 U.S.C. § 841(c)(2). See United States v. Wicker, No. 4:15CR254-2 CEJ (E.D.Mo. 2016). On February 9, 2016, she was sentenced to a 77-month term of imprisonment to be followed by a two-year term of supervised release. Id. Movant did not appeal the judgment.

In the instant motion, movant seeks a reduction of her sentence based on Amendment 794 which amended the Commentary to § 3B1.2 of the United States Sentencing Guidelines. Amendment 794 became effective on November 1, 2015, after movant pled guilty but before she was sentenced.

Because movant is seeking a reduction of her sentence, her motion is governed by 18 U.S.C. § 3582. Therefore, the Court will administratively terminate the instant action and it will

not be counted as a motion to vacate under 28 U.S.C. § 2255. The motion will be interpreted as one brought pursuant to 18 U.S.C. § 3582, and will be filed in the criminal case.

Accordingly,

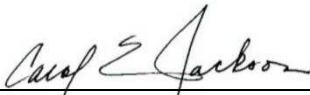
**IT IS HEREBY ORDERED** that this case is **administratively terminated** and will not be considered a motion to vacate brought pursuant to 28 U.S.C. § 2255.

**IT IS FURTHER ORDERED** that a copy of movant's motion shall be filed in United States v. Wicker, No. 4:15CR254-CEJ-2, and docketed as a motion for reduction of sentence pursuant to 18 U.S.C. § 3582.

**IT IS FURTHER ORDERED** that the United States shall have until **November 30, 2016**, to file a response.

**IT IS FURTHER ORDERED** that no certificate of appealability shall issue.

Dated this 9th day of November, 2016.



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CAROL E. JACKSON  
UNITED STATES DISTRICT JUDGE