

NONPRECEDENTIAL DISPOSITION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 October 30, 2024*

Decided October 31, 2024

Before

ILANA DIAMOND ROVNER, *Circuit Judge*

MICHAEL Y. SCUDDER, *Circuit Judge*

JOSHUA P. KOLAR, *Circuit Judge*

No. 24-1830

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

CHRISTOPHER CRITTENDON,
Defendant-Appellant.

Appeal from the United States District
Court for the Eastern District of
Wisconsin.

No. 17-CR-121

Lynn Adelman,
Judge.

ORDER

Christopher Crittendon moved to reduce his prison sentence under 18 U.S.C. § 3582(c)(2) based on a recent amendment to the Sentencing Guidelines. The district court denied the motion, reasoning that Crittendon's below-guidelines sentence barred

* We have agreed to decide the case without oral argument because the briefs and record adequately present the facts and legal arguments, and oral argument would not significantly aid the court. FED. R. APP. P. 34(a)(2)(C).

a sentence reduction and that, in any event, consideration of the sentencing factors in 18 U.S.C. § 3553(a) cautioned against lowering his sentence. We affirm.

In 2022, a jury convicted Crittendon of armed bank robbery, 18 U.S.C. § 2113(a), and brandishing a firearm during a crime of violence, *id.* § 924(c)(1)(A)(ii). The Probation Office prepared a presentence investigation report. The report assigned Crittendon a total offense level of 22 (a base offense level of 20 for the robbery, U.S.S.G. § 2B3.1(a), plus two levels because he committed the offense against a financial institution, *id.* § 2B3.1(b)(1)), a criminal history category of IV (six points for prior offenses and two more because he committed this robbery while on probation, *id.* § 4A1.1(d)), and a sentencing guidelines range of 63 to 78 months. The firearm offense carried a statutory minimum sentence of 84 months. 18 U.S.C. § 924(c)(1)(A)(ii). The district court sentenced Crittendon to a below-guidelines sentence of 40 months for the robbery conviction and 84 months for the firearm conviction, to be served consecutively.

A year and a half later, Crittendon moved under 18 U.S.C. § 3582(c)(2) to reduce his sentence for the robbery conviction based on a new amendment to the Guidelines. He observed that Amendment 821 (the relevant portion of which applies retroactively, *see* U.S.S.G. § 1B1.10(d)), removed two criminal history points from the criminal history score for defendants who committed their offense while serving another sentence. *Compare* U.S.S.G. § 4A1.1(d) (2018), *with id.* § 4A1.1(e) (2023). This amendment lowered Crittendon's criminal history score from eight to six, his category from IV to III, and his sentencing range from 63 to 78 months to 51 to 63 months.

The district court denied the motion. The court explained that Crittendon was ineligible for a sentence reduction because his 40-month sentence already fell below the amended range and could not be lowered. *Id.* § 1B1.10(b)(2)(A). And even if his sentence could be lowered, the court pointed out that the § 3553(a) factors—particularly, the seriousness of Crittendon's violent crime and later flight from the police—did not support a reduction.

On appeal, Crittendon generally challenges the district court's denial of his motion. But as the district court observed, a prison sentence under § 3582(c)(2) may not be reduced to a length shorter than the minimum of the revised guidelines range. U.S.S.G. § 1B1.10(b)(2)(A); *see also Dillon v. United States*, 560 U.S. 817, 826–27 (2010). Because Crittendon's 40-month sentence is shorter than the 51-month minimum calculated under the revised sentencing range, we agree with the district court that he is ineligible for a sentence reduction under § 3582(c)(2).

Because Crittendon is ineligible for the reduction he seeks, we need not address his argument that the court erred in its weighing of the § 3553(a) sentencing factors.

AFFIRMED