

NONPRECEDENTIAL DISPOSITION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 January 27, 2026*

Decided January 28, 2026

Before

MICHAEL Y. SCUDDER, *Circuit Judge*

AMY J. ST. EVE, *Circuit Judge*

CANDACE JACKSON-AKIWUMI, *Circuit Judge*

No. 25-2383

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

Appeal from the United States District
Court for the Northern District of Indiana,
Fort Wayne Division.

v.

No. 1:16-cr-78-DRL

MARKELL PALMER-TATE,
Defendant-Appellant.

Damon R. Leichty,
Judge.

ORDER

Markell Palmer-Tate, a federal prisoner, appeals an order denying his second motion seeking a sentence reduction under 18 U.S.C. § 3582(c)(2) based on Amendment 821 to the Sentencing Guidelines. Because Palmer-Tate cannot file a second motion for a sentence reduction on this basis, we affirm.

* 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).

In 2016, Palmer-Tate and two co-defendants planned to kidnap bank employees and rob a bank in Fort Wayne, Indiana. The robbers kidnapped one employee, but when the other escaped, the trio abandoned their plan. Palmer-Tate pleaded guilty to attempted bank robbery by force or violence that involved a kidnapping, *see* 18 U.S.C. § 2113(a), (d)–(e), and aiding and abetting, *see id.* § 2.

In 2019, the district court calculated Palmer-Tate’s guidelines range of 188–235 months’ imprisonment. He was assigned criminal history category IV based on six points for his prior offenses, which included a conviction for simple possession of marijuana, *see* U.S.S.G. § 4A1.1(b), plus two “status points” because he committed the attempted robbery while under a criminal justice sentence, *id.* § 4A1.1(d). The district court sentenced him to 188 months’ imprisonment.

In 2023, the Sentencing Commission promulgated Amendment 821, two parts of which are relevant here. Part A limits the assignment of “status points” to offenders with seven or more criminal history points. U.S.S.G. § 4A1.1(e) (2023). Part C revises the commentary to § 4A1.3 to include prior convictions of marijuana possession as an example of when a court may lower a defendant’s criminal history category. *Id.* § 4A1.3 cmt. n.3(A)(ii).

In January 2024, Palmer-Tate requested a reduced sentence under 18 U.S.C. § 3582(c)(2), arguing that because Part A lowered his criminal history category and reduced his advisory range to 168–210 months, his sentence should be modified to correspond with the low end of his revised range. The court denied his motion, reasoning that a reduction would not adequately address the factors in 18 U.S.C. § 3553(a), including the seriousness of his offense, the danger he posed to the public, and his personal history and characteristics. Palmer-Tate did not appeal.

Eight months later, in October 2024, Palmer-Tate filed a motion for reconsideration. In addition to his revised criminal history category, he argued that he no longer posed a threat to society, as evidenced by his participation in over a dozen programs while incarcerated and absence of disciplinary infractions in over two years. The court denied that motion as well, noting that though his rehabilitative efforts were positive, nothing in his motion changed the court’s prior analysis. Palmer-Tate again did not appeal.

In July 2025, Palmer-Tate filed another motion to reduce his sentence, this time arguing that under Part C, the court should recalculate his criminal history score without including his marijuana-possession conviction. He also contended that new

circumstances warranted the court's attention, emphasizing his dedicated pursuit of rehabilitation, constructive participation in prison programming, and sincere remorse for his crimes. The court construed the motion as a second request for reconsideration and denied it, explaining that Part C does not tell the court how to calculate criminal history status or require it to discount marijuana-possession offenses; instead, Part C suggests when a lower criminal history category may be warranted. Palmer-Tate appealed, but his notice of appeal was too late to challenge the district court's denials of his 2024 filings. *See* FED. R. APP. P. 4(b)(1)(A). His appeal, therefore, only challenges the denial of his July 2025 motion.

But there is a problem: though the district court treated Palmer-Tate's July motion as a second request for reconsideration, that filing does not meet the requirements for a motion to reconsider because it was not filed within 14 days of the denial of any motion. *United States v. Beard*, 745 F.3d 288, 291 (7th Cir. 2014) (citing *United States v. Redd*, 630 F.3d 649, 650 (7th Cir. 2011) (motion to reconsider timely if filed within Rule 4(b)'s 14-day period)). Palmer-Tate's July motion, therefore, is a new request for a lower sentence under § 3582(c)(2). *See Redd*, 630 F.3d at 651.

But neither § 3582(c)(2) nor Amendment 821 provides more than one chance for a prisoner to request a reduced sentence resulting from a revised guidelines range. *See id.* Once a sentence is imposed, a district court may not modify it except under Rule 35 of the Federal Rules of Criminal Procedure, or if the Sentencing Commission amends the Guidelines and makes that amendment retroactive. 18 U.S.C. § 3582(c); *Redd*, 630 F.3d at 651. In other words, a prisoner has "only one bite at the apple per retroactive amendment to the sentencing guidelines." *Beard*, 745 F.3d at 292. Palmer-Tate availed himself of his one opportunity and, notwithstanding the district court's characterization of his later filings, he can no longer seek to reduce his sentence under Amendment 821.

AFFIRMED