

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

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No. 09-10451  
Non-Argument Calendar

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FILED U.S. COURT OF APPEALS ELEVENTH CIRCUIT SEPTEMBER 23, 2009 THOMAS K. KAHN CLERK
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D. C. Docket No. 03-00184-CR-T-30-EAJ

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

TROY TASHER,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Middle District of Florida

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(September 23, 2009)

Before BIRCH, HULL and PRYOR, Circuit Judges.

PER CURIAM:

Troy Tasher appeals the denial of his motion to reduce his sentence. 18

U.S.C. § 3582(c)(2). Tasher's motion was based on Amendment 706 to the Guidelines. We affirm.

The district court did not err by denying Tasher's motion. Tasher acknowledges that he is not eligible for a reduction of sentence as a career offender, United States v. Moore, 541 F.3d 1323, 1330 (11th Cir. 2008), but he argues that he falls within an exception to Moore because he received a downward departure. The district court departed downward on the ground that Tasher's criminal history category overrepresented his criminal record, which had no effect on Tasher's offense level. Amendment 706 did not have the effect of lowering Tasher's sentencing range. Moore, 541 F.3d at 1327–28.

The denial of Tasher's motion for a reduced sentence is **AFFIRMED**.