

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

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No. 08-14337  
Non-Argument Calendar

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FILED U.S. COURT OF APPEALS ELEVENTH CIRCUIT APRIL 20, 2009 THOMAS K. KAHN CLERK
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D. C. Docket No. 92-00028-CR-ORL-18GJK

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

COLLIN MARSHALL,  
a.k.a. Slim,

Defendant-Appellant.

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

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(April 20, 2009)

Before BIRCH, MARCUS and ANDERSON, Circuit Judges.

PER CURIAM:

Collin Marshall, a federal prisoner, appeals the district court's reduction of

his sentence pursuant to 18 U.S.C. § 3582(c)(2). Marshall was originally sentenced in 1992 to 360 months of imprisonment for conspiracy to possess with intent to distribute crack cocaine, and possession with intent to distribute crack cocaine. R1-575 at 1. Pursuant to Marshall's § 3582(c)(2) motion, the district court determined he was eligible for a sentence reduction under Amendments 706 and 711 to the United States Sentencing Guidelines, which reduced the base offense level for crack cocaine offenses two levels. R1-577. The court sentenced Marshall to 324 months of imprisonment – the minimum term permitted by the amended guideline range. Id.; R1-572 at 4.

The only issue on appeal is whether the district court had discretion under United States v. Booker, 543 U.S. 220, 125 S. Ct. 738 (2005), to treat the guidelines as advisory and further reduce Marshall's sentence below the amended guideline range. The answer is no. See United States v. Melvin, No. 08-13497, \_\_\_ F.3d \_\_\_, 2009 WL 236053, at \*1 (11th Cir. Feb. 3, 2009) (per curiam) (“Concluding that Booker and Kimbrough<sup>1</sup> do not apply to § 3582(c)(2) proceedings, we hold that a district court is bound by the limitations on its discretion imposed by § 3582(c)(2) and the applicable policy statements by the Sentencing Commission.”). Accordingly, we AFFIRM the district court's

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<sup>1</sup>Kimbrough v. United States, 552 U.S. \_\_\_, 128 S. Ct. 558 (2007).

sentence.

**AFFIRMED.**