

NOT FOR PUBLICATION

In the
United States Court of Appeals
For the Eleventh Circuit

No. 25-13881
Non-Argument Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

GABRIEL HAKEEM LEE,

Defendant-Appellant.

Appeal from the United States District Court
for the Middle District of Alabama
D.C. Docket No. 2:22-cr-00091-ECM-CWB-3

Before ROSENBAUM, GRANT, and LUCK, Circuit Judges.

PER CURIAM:

Gabriel Hakeem Lee appeals the district court's denial of his motion to reconsider its order granting him a sentence reduction.

The district court, he contends, erred by failing to reduce his sentence further under Amendment 833 to the United States Sentencing Guidelines. After careful review, we affirm.

I.

In 2014, Lee was convicted of dealing firearms without a license, *see* 18 U.S.C. §§ 922(a)(1)(A), 923(a), 924(a)(1)(D), and possessing a firearm as a felon, *see id.* § 922(g)(1). In calculating his advisory guideline range, he received a two-level enhancement for his role as a manager, organizer, or supervisor. *See* U.S.S.G. § 3B1.1(c). And he did not qualify for a reduction for acceptance of responsibility. Ultimately, Lee was sentenced to eighty-four months' imprisonment and three years of supervised release.

In 2022, after serving his prison sentence, but while still on supervised release, Lee was charged with and pleaded guilty to distributing fifty grams or more of methamphetamine. *See* 21 U.S.C. § 841(a)(1). In calculating his advisory guideline range for the 2022 case, he received two status points for committing the offense while on supervised release, no adjustment for his role in the offense, and a two-level reduction for acceptance of responsibility. Based on his guideline range, Lee was sentenced to 121 months' imprisonment. The 2022 case also resulted in a violation of his supervised release in the 2014 case, for which he received a fifteen-month sentence.

Lee moved to reduce his sentence under 18 U.S.C. section 3582(c)(2), arguing that Amendment 821 retroactively lowered his guideline range because he was “on probation” at the time

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of the 2022 case. The district court granted the motion and reduced his sentence to 108 months.

Unhappy with the new sentence, Lee moved to reconsider. He argued that he was entitled to an additional reduction under Amendment 833, which made changes to the mitigating-role guideline. The district court denied the motion.

II.

We review a district court’s decision to grant or deny a sentence reduction under section 3582(c)(2) “only for abuse of discretion,” *United States v. Caraballo-Martinez*, 866 F.3d 1233, 1238 (11th Cir. 2017), keeping in mind that we liberally construe pro se filings, *United States v. Ogiekpolor*, 122 F.4th 1296, 1304 (11th Cir. 2024). We also review for abuse of discretion the denial of a motion for reconsideration. *United States v. Simms*, 385 F.3d 1347, 1356 (11th Cir. 2004).

III.

Lee argues that the district court erred in denying his reconsideration motion. Section 3582(c)(2) gives district courts the authority to reduce a defendant’s sentence where his sentence was “based on a [] range that has subsequently been lowered by the Sentencing Commission.” 18 U.S.C. § 3582(c)(2). “This authority is limited to those guideline amendments listed in [guideline section] 1B1.10[(d)] that have the effect of lowering the defendant’s applicable guideline range.” *United States v. Williams*, 557 F.3d 1254, 1256 (11th Cir. 2009) (citation modified).

The flaw in Lee’s argument is that Amendment 833 is not listed in section 1B1.10(d). *See* U.S.S.G. § 1B1.10(d). The Sentencing Commission did not make Amendment 833 retroactive. *See id.*; *United States v. Martinez*, 172 F.4th 1306, 1316 (11th Cir. 2026) (explaining that Amendment 833 was not retroactive and thus was not available to a defendant seeking a sentence reduction). So Lee was not entitled to a further reduction of his sentence under Amendment 833. For that reason, we affirm.¹

AFFIRMED.

¹ Lee also argues that he should have received a “downward departure” in his 2014 case for acceptance of responsibility and that he should not have received a two-level enhancement for his supervisory role in the offense. But we can’t consider these arguments because a sentence-reduction motion under section 3582(c)(2) cannot be used to collaterally attack a sentence. *See Antonelli v. Warden, U.S.P. Atl.*, 542 F.3d 1348, 1351 n.1 (11th Cir. 2008) (explaining that a motion under 28 U.S.C. section 2255 “is the exclusive remedy for a federal prisoner to collaterally attack his conviction and sentence”); *United States v. Bravo*, 203 F.3d 778, 781–82 (11th Cir. 2000) (concluding that section 3582(c) “does not grant to the court jurisdiction” to consider a collateral attack to a sentence, which must instead be brought under 28 U.S.C. section 2255).