

NONPRECEDENTIAL DISPOSITION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 September 20, 2024*

Decided September 24, 2024

BeforeFRANK H. EASTERBROOK, *Circuit Judge*ILANA DIAMOND ROVNER, *Circuit Judge*JOSHUA P. KOLAR, *Circuit Judge*

No. 24-1874

UNITED STATES OF AMERICA,
*Plaintiff-Appellee,**v.*MICHAEL BRAVO,
*Defendant-Appellant.*Appeal from the United States District
Court for the Northern District of
Illinois, Eastern Division.

No. 1:16-cr-00463

Virginia M. Kendall,
*Chief Judge.***ORDER**

Michael Bravo appeals the district court's denial of his motion for sentence reduction under 18 U.S.C. § 3582(c)(2). The court denied the motion because Bravo's current sentence is shorter than the bottom of the guidelines range under the

* 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).

amendment to the Guidelines that he invokes, disqualifying him for a reduction. Because Bravo is not eligible for a reduction under § 3582, we affirm.

In 2018, Bravo pleaded guilty to conspiracy to commit racketeering activity, 18 U.S.C. § 1962, in connection with a violent street gang. With a criminal history category of IV and an offense level of 30, the Sentencing Guidelines advised a range of 135 to 168 months in prison. In analyzing the sentencing factors under 18 U.S.C. § 3553(a), the sentencing judge decided to vary 60 months below the top of that range—48 for the time that Bravo had served for his predicate firearms offense and 12 for rehabilitation. This deduction led the judge to impose a prison term of 108 months.

Bravo's initial appeal led to a resentencing. He successfully argued that the district court improperly assigned criminal history points to two convictions that were "similar" to disorderly conduct, and without those points, his criminal history category dropped to III, producing a guidelines range of 121 to 151 months' imprisonment. U.S.S.G. § 4A1.2; *United States v. Bravo*, 26 F.4th 387 (7th Cir. 2022). We concluded that, because the sentence was "anchored in" the guidelines range, the court could have arrived at a lower sentence had it been aware of the correct guidelines range. *Bravo*, 26 F.4th at 397. On remand, and considering new mitigating evidence, the district court varied slightly downward from its previous sentence, imposing a 100-month term.

Last year, the Sentencing Commission retroactively amended U.S.S.G. § 4A1.1, removing two criminal history points for defendants who offended while under a criminal justice sentence (so-called "status points"). Invoking this amendment, Bravo moved for a sentence reduction. He argued that his criminal history score should drop from III to II, yielding a new guidelines range of 108 to 135 months. The district court denied the motion. It followed the Sentencing Guidelines' policy statement, which states that "the court shall not reduce the defendant's term of imprisonment ... to a term that is less than the minimum of the amended guideline range" U.S.S.G. § 1B1.10(b)(2). Bravo's sentence was already 100 months, 8 months below the bottom of his new range.

On appeal, Bravo argues that he qualifies for a sentence reduction. In his view, his sentence falls below the bottom of the amended guidelines range only because the district court credited him for time served on a predicate sentence. Without that credit, which he insists the district court must ignore when deciding his motion, his sentence would be 148 months, above his new minimum of 108 months. Therefore, he concludes, he qualifies for a reduction.

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Bravo's conclusion is incorrect. In proceedings under § 3582(c)(2) for sentence reductions based on retroactive changes to the Guidelines, the Supreme Court "requir[es] courts to honor § 1B1.10(b)(2)'s instruction not to depart from the amended Guidelines range." *Dillon v. United States*, 560 U.S. 817, 830 (2010). The instruction contains only one exception—if the original sentence fell below the amended guidelines range because of credit given for substantial assistance to the government. *Id.* at 822; U.S.S.G. § 1B1.10(b)(2). The policy statement contains no other exceptions, and Bravo does not argue that the substantial-assistance exception applies to him. Because Bravo's sentence is lower than the minimum recommended sentence under the amended Guidelines, he is ineligible for a sentence reduction. The district court thus properly denied his motion.

AFFIRMED