

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 09-1756

United States of America,

Appellee,

v.

Ali M. Akbar,

Appellant.

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* Appeal from the United States

* District Court for the

* Western District of Missouri.

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* [UNPUBLISHED]

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Submitted: September 28, 2009

Filed: October 2, 2009

Before WOLLMAN, RILEY, and SMITH, Circuit Judges.

PER CURIAM.

Ali Akbar appeals the district court's¹ order reducing his sentence pursuant to 18 U.S.C. § 3582(c)(2) based on Amendment 706 to the Sentencing Guidelines. The district court--which had originally sentenced Akbar at the bottom of his Guidelines range to 188 months in prison--resentenced him at the bottom of his recalculated Guidelines range to 151 months in prison. Akbar's argument on appeal that the district court should be allowed to sentence him below the Guidelines range is foreclosed by this court's precedent. See United States v. Starks, 551 F.3d 839, 841-

¹The Honorable Ortrie D. Smith, United States District Judge for the Western District of Missouri.

43 (8th Cir.) (modification proceedings under § 3582(c)(2) are more narrow in scope than original sentencing proceedings; limitations on district court's authority in applicable policy statement of U.S.S.G. § 1B1.10 are constitutional and enforceable), cert. denied, 129 S. Ct. 2746 (2009); United States v. Snyder, 511 F.3d 813, 818 (8th Cir.) (one Eighth Circuit panel may not overrule another), cert. denied, 128 S. Ct. 2947 (2008); see also United States v. Harris, 556 F.3d 887, 888 (8th Cir. 2009) (per curiam) (appellant's argument that district court had authority to sentence him below Guidelines range in § 3582(c)(2) sentencing is foreclosed by Starks), petition for cert. filed, (U.S. May 22, 2009) (No. 08-10701).

Accordingly, the judgment is affirmed.
