

United States Court of Appeals
For the Eighth Circuit

No. 24-1302

United States of America

Plaintiff - Appellee

v.

Brady Austin Rogers

Defendant - Appellant

Appeal from United States District Court
for the Southern District of Iowa - Eastern

Submitted: July 19, 2024

Filed: July 24, 2024

[Unpublished]

Before LOKEN, GRUENDER, and BENTON, Circuit Judges.

PER CURIAM.

Brady Austin Rogers appeals the 92-month sentence the district court¹ imposed after sua sponte granting a sentence reduction pursuant to 18 U.S.C. § 3582(c)(2) and Guidelines Amendment 821. Having jurisdiction under 28 U.S.C. § 1291, this court affirms.

¹The Honorable Stephen H. Locher, United States District Judge for the Southern District of Iowa.

Rogers’s counsel, who has moved for leave to withdraw, filed a brief arguing that the district court erred by not varying downward from the amended Guidelines range as it did at Rogers’s initial sentencing. In a pro se supplemental brief, Rogers challenges the fairness of Amendment 821 as applied to defendants, such as himself, who had no prior opportunity to provide substantial assistance to the government.

Upon careful review, this court finds no error in the sentence reduction the district court granted. *See United States v. Tollefson*, 853 F.3d 481, 485 (8th Cir. 2017) (standard of review).

[I]n the case of a defendant who has been sentenced to a term of imprisonment based on a sentencing range that has subsequently been lowered by the Sentencing Commission . . . the court may reduce the term of imprisonment, after considering the factors set forth in section 3553(a) to the extent they are applicable, *if such a reduction is consistent with applicable policy statements issued by the Sentencing Commission*.

18 U.S.C. § 3582(c)(2) (emphasis added). *Accord United States v. Helm*, 891 F.3d 740, 742 (8th Cir. 2018) (noting § 3582(c)(2) requires that any reduction “be consistent with applicable policy statements issued by the Sentencing Commission”). Rogers’s reduced sentence fell at the bottom of the amended Guidelines range. By the language in § 3582(c)(2), Congress limited the district court’s discretion to grant a variance reducing Rogers’s sentence below what U.S.S.G. § 1B1.10 allows. *See* U.S.S.G. § 1B1.10(b)(2)(A), (b)(2)(B), (d) (providing that any reduction may not be below amended Guidelines range unless initial below-Guidelines sentence reflected defendant’s substantial assistance).

The judgment is affirmed, and counsel’s motion to withdraw is granted.
