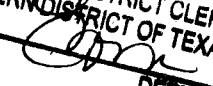


IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION

UNITED STATES OF AMERICA  
    plaintiff  
V.  
JOSE RODOLFO ESCAJEDA  
    defendant

**FILED**  
DEC 14 2020  
CLERK, U.S. DISTRICT CLERK  
WESTERN DISTRICT OF TEXAS  
BY  DEPUTY

NO.EP-06-cr-2507(2)KC

Defendant's motion to reduce  
a sentence of imprisonment  
pursuant to 18 §3582(c)(2).

Comes now, Jose rodolfo Escajeda, pro se and moves this court, pursuant to 18 U.S.C. § 3582 (c)(2), to reduce the sentence of imprisonment previously imposed in the above-entitle and numbered cause, upon the ground.

That the guideline range for drug quantity table has been lowered by the UNITED STATES sentencing commission.1 Amendment 782 reduced by two levels the offense levels assigned to the quantities that trigger the statutory mandatory minimum penalties in §2D1.1 and made parallel changer to 2D1.11, under the applicable standards set forth in the background commentary to §1B1.10.

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1. The recent retroactivity recommendation of the commission does not take force and effect until November 1, 2014.

Nature of proceeding

This is a motion, pursuant to 18 U.S.C. §3582(c)(2), to reduce defendant's sentence of imprisonment, as the guideline range for all drug offenses has been lowered.

Defendant further requests that the court apply UNITED STATES sentencing guideline , section §1B1.10, and the factors therein stated, in determining the extent of such reduction, and the magnitude of the change in the guideline range made by the Amendment.

Statement of the case

As relevant herein , defendant was convicted by plead guilty of the offenses of conspiracy and distribution of marijuana and cocaine 21 U.S.C. §§ 841(a)(1), 846 and 18 U.S.C. § 2.

Pursuan to decide guilty, on 3 - 1, 2012 defendant was sentece to a term of 420 month in the federal bureau of prision (BOP), upon a stipulated drug quantity of at least - 1000 kilogram of marijuana and 5 kilogram of cocaine.

Defendant is imprisoned in BOP, and as concerns U.S.S.G. §1B1.10 application note (1) (B)(iii), has demonstrated as well, defendant has voluntarily enrolled in , and completed institutionally programs, house keeper apprenticeship, Basic carpentry, Building trades 3 times a wk, plumbing, Elec, Esl, food handlers training and 15 more.

Defendant has maintained for more that 6 years diciplinary record, and his intititutional adjustment has been noted as being excellent.

Defendant is seeking a reduction in his sentence on the basis of proposed Amendment 782 to the sentencing guideline. If implemented, Amendment 782 will revise the drug quantity table in U.S.S.G. § 2D1.1 and reduce by two levels the offense level applicable to many drug trafficking.

Defendant calculate his sentencing guideline in 40, criminal history 1 range the 292 to 365 after his two point reduce under Amendment 782.

POINT ONE

Defendant's sentence may be reduce pursuant to the united states sentencing commission's Amendment of the federal sentencing guideline to afford retroactive effect to Amendment 782.

18 U.S.C. § 3582 (c)(2) provides:

" §3582. Imposition of a sentencen of imprisonment (c) modification of an imposed term of imprisonment. The court may not modify a term of imprisonment once if has been imposed except that--

(2) In the case of a defendant who has been sentence to a term of inprisonment based on a sentencing range that has sudsequently been lowered by the sentencing commission pursuant to 28 U.S.C. 994 (o), upon motion of the defendant or the director of the Bureau of prision, or on its own motion, the court may reduce the term of imprisonment, afther considering the factor set forth in section 3553(a) [18 USCS §3553 (a)] to the extent that they are applicable , if such a reduction is consistent with applicable policy statements issue by the sentencing commission."

Pursuant to this statutory authority, The commission promulgated Amendment 782 on April 30, 2014. The amendment revised the drug quantity table and chemical types.

The commission, consistent with § 994 (p), stated that amendment 782 will be effective on November 1, 2014 unless congress act to modify or disapprove the amendment.

Subsequently on july 18, 2014 the commission voted to make amendment 782 retroactively applicable to previously sentenced, defendant pursuant to the authority provided in 28 U.S.C. § 994 (u):

"If the commission reduce the term at imprisonment recommended in the guideline applicable to a particular offense or category of offenses , if shall specify in what circumstances and by what amount the sentences of prisoners serving term of imprisonment for the offence may reduce".

See 28 U.S.C. § 994:

§ 1B1.10 reduction in term of imprisonment as a result of amended the drug quantity table.

(a) Authority.

(1) In general, In the case in which a defendant is serving a term of imprisonment and the guideline range applicable to that defendant has subsequently been lowered as a result of an amendment to the guideline manual listed in subsection (c) below, the court may reduce the defendant's term of imprisonment as provide by 18 U.S.C. 3582 (c)(2). AS required by 18 U.S.C. 3582 (c)(2), any such reduction in the defendant's term of imprisonment shall be consistent with policy statement.

By virtue of the commission's recommendation, not later that November 1, 2014 these sweeping charger will take effect.

In doing so, as allowed by 18 U.S.C. §3582 (c)(2), the defendant make application pursuant to USSG §1B1.10 for a reduction in his term of imprisonment.

USSG 1B1.10

(b) Determination of reduction in term of imprisonment.

(1) In general. In determining whether, and to what extent, a reduction in the defendant's term of imprisonment under 18 U.S.C. 3582 (c)(2) and this policy statement is warranted, the court shall determine the amended guideline range that would have been applicable to the defendant if the amendment (c) to the guideline listed in subsection (c) had been in effect at such determination, the court shall substitute only the amendments listed in the subsection (c) for the corresponding guideline provisions that were applied when the defendant was sentenced and shall leave all other guideline application decisions unaffected.

(2) Limitation and prohibition on extent of reduction.

(a) In general, except as provided in subdivision.

(b) The court shall not reduce the defendant's term of imprisonment under 18 U.S.C. 3582 (c)(2) and this policy statement to a term that is less than the minimum of the amended guideline range determined under subdivision (1) of this subsection.

(B) Exception. If the original term of imprisonment imposed was less than the term of imprisonment provided by the guideline range applicable to the defendant at the time of sentencing, a reduction comparably less than the amended guideline range determined under subdivision (1) of this subsection may be appropriate. However, if the original term of imprisonment constituted a non-guideline sentence determined pursuant to 18 U.S.C. 3553 (a) and *United States v. Booker*, 543 U.S. 220 (2005), a further reduction generally would not be appropriate.



Elegibility for consideration under 18 U.S.C. 3582(c)(2) is triggered only by an amendment listed in subsection (c) that lowers the applicable guideline range.

Herein, The guideline range has been lowered, and defendant is otherwise eligible for a reduction.

In determining whether and , if so, how much of a reduction is appropriate, USSG § 1B1.10, application note (1)(B) sets out factors for consideration.

(B) Factor for consideration.

(i) In general ,consistent with 18 U.S.C 3582 (c)(2), the court shall consider the factor set forth in 18 U.S.C. 3553 (a) in determining; (I) Whether a reduction in the defendant's term of imprisonment is warranted; and (II) The extent of such reduction, but only within the limits described in subsection (b).

(ii) Public safety consideration, The court shall consider the nature and seriousness of the danger to any person or the community that may be posed by a reduction in the defendant's term of imprisonment in determining: (I) Whether such a reduction is warranted; and (II) The extent of such reduction, but only within the limits described in subsection (b).

(iii) Post-sentencing conduct. The court may consider post-sentencing of the defendant that occurred after imposition of the original term of imprisonment in determining: (I) Whether a reduction in the defendant's term of imprisonment is warranted; and (II) the extent of such reduction, but only within the limits described in subsection (b).

White prior reduction under § 1B1.10 have been mostly formulaic, the advent of the decision in UNITED STATES V. Pepper US\_\_\_\_, 88 crim L. Rep. 699 (2011) is of particular importance vis-a-vis post sentencing conduct.

As pepper made clear, post-sentencing rehabilitation is now an important factor, not to be discounted, in arriving at a new sentence, pepper poin out that there can be no limitation of post sentencing rehabilitation issues, by statute 18 U.S.C. § 3661.

Accordingly, defendant requests that the court , in determining whether, and how much of a reduction is appropriate, also give weight to defendant's actions and accomplishments in BOP, set forth above. Those action and accomplishments further militate in favor of a reduction.

CONCLUSION

Quare, defendant Jose Rodolfo Escajeda pray that this motion is GRANTED together with such other and fusther relief as the court may deem just and proper.

DATE 12-8-2020

Jose Rodolfo Escajeda

Jose Rodolfo Escajeda

# 69445-280

pro-se

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EL PASO DIVISION

Jose Rodolfo Escajeda  
petitioner  
V.  
UNITED STATES OF AMERICA

NO.EP\_06-cr-2507(2)KC

Certificate of Service

The undersigned hereby certifies that his is inmate  
in the FCI Phoenix, AZ and a person of such age and discretion  
to be completent to serve papers.

That on dicember 12-8 2020 his the attached

Jose Rodolfo Escajeda

Jose Rodolfo Escajeda

# 69445-280

pro-se

FCI Phoenix

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Phoenix, AZ 85086

Date 12-8-2020

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**FILED**

DEC 14 2020

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WESTERN DISTRICT OF TEXAS  
BY *[Signature]* DEPUTY

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