

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
MARTINSBURG**

UNITED STATES OF AMERICA,

Plaintiff,

v.

**CRIMINAL ACTION NO.: 3:00-CR-29-1
(JUDGE GROH)**

DAMON L. MITCHELL,

Defendant.

ORDER DENYING MOTION FOR MODIFICATION OF SENTENCE

Currently pending before the Court is a Motion for Modification of Sentence filed by the *pro se* Defendant on October 1, 2014. CMF 335. The Defendant is currently serving a sentence of fourteen months' imprisonment. In his motion, the Defendant asks the Court to modify his sentence to eight months' imprisonment with a mandatory six months' halfway house placement. The Defendant has previously been placed on supervised release twice. Each time, the Defendant's supervised release has been revoked by this Court.

18 U.S.C. § 3582(c) provides that a district court may not modify a term of imprisonment once it has been imposed, except in certain situations. The exceptions include modifications upon motion of the Director of the Bureau of Prisons, modifications expressly permitted by statute or Rule 35 of the Federal Rules of Criminal Procedure, and reductions based on sentencing ranges that have been subsequently lowered by the Sentencing Commission pursuant to 28 U.S.C. § 944(o).

Here, the Defendant asserts that modifying his sentence would allow him to safely reintegrate into society. The Court has no authority to modify the Defendant's sentence on

the basis asserted. 18 U.S.C. § 3582(c) does not provide any basis to modify the Defendant's sentence as it (1) is not upon motion of the Director of the Bureau of Prisons, (2) is not provided for under Federal Rule of Criminal Procedure 35 to correct a clear error within fourteen days after sentencing or to reduce a sentence for substantial assistance, and (3) is not a sentencing range that has subsequently been lowered by the Sentencing Commission pursuant to 28 U.S.C. § 944(o). In reviewing the Defendant's sentence, the Court does not find it is improper, and the Court does not find any basis for modifying or reducing the Defendant's sentence. Accordingly, the Court **DENIES** the Defendant's Motion for Modification of Sentence.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to all counsel of record and *pro se* parties.

DATED: October 3, 2014


GINA M. GROH
UNITED STATES DISTRICT JUDGE