

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 03-1279

United States of America,

Appellee,

v.

Byron James Miller,

Appellant.

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Appeal from the United States
District Court for the Eastern
District of Missouri.

[UNPUBLISHED]

Submitted: September 12, 2003

Filed: September 15, 2003

Before BYE, BOWMAN, and MELLOY, Circuit Judges.

PER CURIAM.

Byron James Miller appeals the District Court's¹ order denying his 18 U.S.C. § 3582(c)(2) (2000) motion. Having carefully reviewed the record, we agree with the District Court that Miller is not entitled to a sentence reduction based on Amendment 635 to the Sentencing Guidelines, which revised the commentary of U.S.S.G. § 3B1.2 (2002) (mitigating role in offense). See U.S. Sentencing Guidelines Manual app. C, Amendment 635 (Supp. 2002). Among other things, Amendment 635 is not listed in U.S.S.G. § 1B1.10(c) (2002). See U.S.S.G. § 1B1.10(a) (2002)

¹The Honorable Catherine D. Perry, United States District Judge for the Eastern District of Missouri.

(sentence reduction is authorized under § 3582(c)(2) where defendant's Guidelines range has been lowered as result of amendment listed in subsection (c); sentence reduction not otherwise authorized); United States v. King, 280 F.3d 886, 891 (8th Cir. 2002) (Congress gave Sentencing Commission explicit power, implemented in § 1B1.10, to decide whether its amendments will be given retroactive effect), cert. denied, 537 U.S. 965 (2002).

Accordingly, we affirm. See 8th Cir. R. 47B.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.