

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 08-1324

United States of America,

Appellee,

v.

Earl Smith,

Appellant.

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

[UNPUBLISHED]

Submitted: September 18, 2008

Filed: September 23, 2008

Before WOLLMAN, MURPHY, and BENTON, Circuit Judges.

PER CURIAM.

Earl Smith appeals the district court's¹ order denying his motion for a reduction of his sentence pursuant to 18 U.S.C. § 3582(c)(2) based on Amendment 706 to the United States Sentencing Guidelines, which reduced the base offense levels in U.S.S.G. § 2D1.1(c) for cocaine-base offenses.

Smith pleaded guilty to possessing with intent to distribute more than 50 grams of a mixture containing cocaine base, which subjected him to a mandatory minimum

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

sentence of 120 months in prison. See 21 U.S.C. § 841(b)(1)(A); U.S.S.G. § 5G1.1(c)(2). Accordingly, Smith is not entitled to a reduction under the retroactive amendment. See United States v. Jones, 523 F.3d 881, 882 (8th Cir. 2008) (per curiam). The district court's judgment is affirmed. See 8th Cir. R. 47A(a).
