

**United States Court of Appeals**  
**FOR THE EIGHTH CIRCUIT**

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No. 08-2282

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United States of America,

Appellee,

v.

Billy D. Davis, also known as  
Lil Spook,

Appellant.

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Appeal from the United States  
District Court for the  
District of Nebraska.

[UNPUBLISHED]

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Submitted: January 20, 2010  
Filed: February 4, 2010

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Before BYE, RILEY, and SHEPHERD, Circuit Judges.

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PER CURIAM.

Billy Davis appeals following the district court's<sup>1</sup> reduction of his sentence pursuant to 18 U.S.C. § 3582(c)(2) and the amendments to the Guidelines related to cocaine base or crack cocaine. Davis was originally sentenced at the bottom of his then-applicable Guidelines range. In resentencing Davis in light of the crack cocaine amendments, the district court reduced Davis's sentence to the bottom of the revised Guidelines range. On appeal, Davis contends that the court should have recalculated

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<sup>1</sup>The Honorable Laurie Smith Camp, United States District Judge for the District of Nebraska.

his criminal history category in light of Guidelines Amendment 709, and that the court should have imposed a sentence below the revised Guidelines range.

Upon careful review, we find no error. See United States v. Starks, 551 F.3d 839, 843 (8th Cir.) (where defendant was originally sentenced within applicable Guidelines range and in § 3582(c)(2) proceeding received sentence at bottom of amended Guidelines range, defendant was not entitled to further reduction based on § 3553(a) factors), cert. denied, 129 S. Ct. 2746 (2009); United States v. Peters, 524 F.3d 905, 907 (8th Cir.) (per curiam) (Amendment 709 is not listed amendment to which retroactive treatment may be given), cert. denied, 129 S. Ct. 290 (2008). Accordingly, we affirm.

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