

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 96-3881

United States of America,

Appellee,

v.

Glenn Alan Germany, also known as
Phillip Larry Johnson,

Appellant.

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

[UNPUBLISHED]

Submitted: July 7, 1997

Filed: July 10, 1997

Before HANSEN, MORRIS SHEPPARD ARNOLD, and MURPHY, Circuit Judges.

PER CURIAM.

Glenn Alan Germany appeals the district court's¹ denial of his 18 U.S.C. § 3582(c)(2) motion. Germany argues his sentences for drug offenses and escape should be reduced pursuant to a Sentencing Commission amendment to the Career Offender Guideline, U.S. Sentencing Guidelines Manual § 4B1.1, comment. (n.2) (1995).

¹The Honorable Russell G. Clark, United States District Judge for the Western District of Missouri.

The Supreme Court held during the pendency of this appeal that the amended Career Offender Guideline was at odds with the plain language of 28 U.S.C. § 994(h), which directs the Sentencing Commission to assure that certain repeat offenders are sentenced “at or near the maximum term authorized.” See United States v. LaBonte, 117 S. Ct. 1673, 1675 (1997). It further held that, because the statute, and not the amended guideline, controls, the “maximum term authorized” must be read to include all applicable statutory sentencing enhancements. Id. at 1679. We conclude Germany’s argument is therefore foreclosed. See United States v. Arnold, No. 95-3892, 1997 WL 314863 at *1 (8th Cir. June 13, 1997).

Accordingly, we affirm.

A true copy.

Attest:

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