

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 08-4009

United States of America,

Appellee,

v.

Clinton B. Allen,

Appellant.

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* Appeal from the United States
* District Court for the
* Western District of Missouri.
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* [UNPUBLISHED]
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Submitted: December 18, 2009

Filed: January 6, 2010

Before WOLLMAN, RILEY and SMITH, Circuit Judges.

PER CURIAM.

Clinton Allen (Allen) appeals following the district court's¹ reduction of his sentence pursuant to 18 U.S.C. § 3582(c)(2) and the recent amendments to the Sentencing Guidelines related to cocaine base or crack cocaine. Allen was originally sentenced at the bottom of his then-applicable Guidelines range. In resentencing Allen under the crack cocaine amendments, the district court reduced Allen's sentence to the bottom of the revised Guidelines range. On appeal, Allen contends the court should have imposed an even lower sentence.

¹The Honorable Ortrie D. Smith, United States District Judge for the Western District of Missouri.

Upon careful review, we find no error. See United States v. Starks, 551 F.3d 839, 843 (8th Cir.) (deciding, where the defendant was originally sentenced within the applicable Guidelines range, and in the § 3582(c)(2) proceeding received a sentence at the bottom of the amended Guidelines range, defendant was not entitled to further reduction based upon the § 3553(a) factors, and the district court correctly determined it lacked authority to reduce the sentence below the bottom of the amended Guidelines range unless defendant was originally sentenced below the original Guidelines range), cert. denied, 129 S. Ct. 2746 (2009). To the extent Allen argues that the court should have held a section 3583(c)(2) hearing, the argument lacks merit. See id. (declaring the district court is not required to hold a hearing in a § 3582(c)(2) proceeding). The judgment of the district court is affirmed.
