UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
TERRE HAUTE DIVISION

UNITED STATES OF AMERICA, *Plaintiff*,	)	
vs.	)	2:10-cr-7-JMS-CMM-17
MELISSA VAN NESS, *Defendant.*	)	

ORDER

Defendant Melissa VanNess has filed a Motion to Reduce Sentence, to which the government has objected, noting that the motion cites no legal basis for a sentence modification. The government is correct.

A Court may only modify a term of imprisonment under one of three circumstances: (1) upon motion by the Director of the BOP; (2) where modification is expressly permitted by statute or by Rule 35 of the Federal Rules of Criminal Procedure; and (3) where a defendant had been sentenced under a sentencing range that was subsequently lowered by the Sentencing Commission pursuant to 28 U.S.C. § 994(o). *Id.* Because Congress has enacted no other statute providing alternative grounds for sentence modification, Rule 35 of the Fed. R. Crim. P. supplies the only alternative to satisfying one of the conditions set forth in § 3582(c). However, Rule 35 designates only two narrow bases for a sentence *reduction*. Fed. R. Crim. P. 35(a)-(b). Under the rule, a Court may only reduce a defendant's sentence: (1) on the basis of correcting clear error; or (2) on the government's motion because a defendant has provided substantial assistance to the government. *Id*.

Ms. Van Ness does not argue that any of these grounds apply. Instead, she urges the Court to grant her Motion because her son needs her to care for him. [Dkt. 1293 at 2.] The

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Court has no authority to grant a reduction in sentence for the suggested reason. Accordingly, Ms. Van Ness's Motion is **DENIED**. [Dkt. 1293.]

08/08/2013

Hon. Jane Magnus-Stinson, Judge
United States District Court
Southern District of Indiana

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Distribution by U.S. Mail to:

Melissa VanNess
#09491-028
Federal Prison Camp
Glen Ray Road
PO Box A
Alderson, WV 24910