

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 06-cr-20172-01

v

Honorable Thomas L. Ludington

D-1, ROBERT JAMES OCAMPO,

Defendant.

**ORDER DENYING MOTION FOR RETROACTIVE
APPLICATION OF SENTENCING GUIDELINES UNDER 18 U.S.C. § 3582**

On April 24, 2017 federal prisoner Robert James Ocampo filed a *pro se* motion for a reduction in his sentence based on Amendment 798 of the United States Sentencing Guidelines pursuant to 18 U.S.C. § 3582. *See* ECF No. 631. Under 18 U.S.C. § 3582, a court may modify a term of imprisonment when a defendant has been sentenced based on a sentencing range that has been subsequently lowered by the Sentencing Commission. A district court may only resentence a defendant pursuant to a sentencing guideline amendment if the Sentencing Commission has determined that the amendment is retroactive. *United States v. Horn*, 679 F.3d 397, 400 (6th Cir. 2012). Amendments that have been deemed retroactive are listed in U.S.S.G. § 1B1.10(d).

Amendment 798 is not listed in § 1B1.10(d), and has not been made retroactive. *See United States v. Johnson*, 665 F. App'x 788, 793 (11th Cir 2016), *Lebron v. United States*, 2017 WL 2116277, at *1 (E.D. Wis. May 15, 2017). Ocampo therefore is not entitled to any relief under § 3582.

Accordingly, it is **ORDERED** that Ocampo's Motion for Retroactive Application of Sentencing Guidelines to Drug Offense 18 U.S.C. 3582, ECF No. 631, is **DENIED**.

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: May 23, 2017

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on May 23, 2017.

s/Kelly Winslow
KELLY WINSLOW, Case Manager