

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA,

v.

CASE NO. 8:12-CR-261-T-17TGW

JOSE ANTONIO JIMINEZ.

_____/

ORDER

This cause is before the Court on:

Dkt. 147 Motion for Reconsideration of the Court's Order
Denying Relief Pursuant to 28 U.S.C. Sec. 3582(c)(2)

Defendant Jose Antonio Jiminez, pro se, requests reconsideration of the Order of May 11, 2017 denying relief pursuant to 18 U.S.C. Sec. 3582(c)(2) based on Amendment 782 of the United States Sentencing Guidelines.

Defendant Jiminez argues that the Court erred in denying relief because Defendant's base offense level would remain at 38. Defendant Jiminez argues that Defendant's base offense level was 35 and not 38.

Defendant Jiminez entered into a Plea Agreement (Dkt. 51). Defendant Jiminez agreed that the stipulated facts of the Plea Agreement were an accurate representation of Defendant's role in the offense. (Dkt. 133, p. 10). Thirty-six bales of cocaine were discovered on the GFV, averaging 20-25 kilograms each.

USSG Sec. 2D1.1 provides that an offense involving at least 150 kilograms of cocaine has a base offense level of 38. USSG Sec. 2D1.1(c)(1). Defendant

Jiminez was accountable for 910 kilograms of cocaine. (Dkt. 133, p. 10).

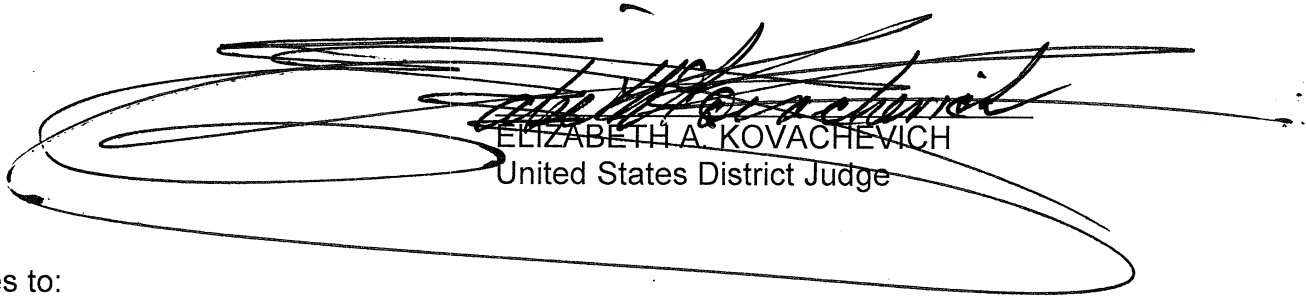
The base offense level of 38 was increased by two levels based on the presence of a dangerous weapon. The adjusted offense level was 40. The adjusted offense level of 40 was then reduced two levels for acceptance responsibility pursuant to USSG Sec. 3E1.1(a), and one additional level pursuant to USSG Sec. 3E1.1(b), resulting in a total offense level of 37. (Dkt. 133, p. 10).

At sentencing, the Court granted the Government's 5K1.1 Motion, departing two levels. (Dkt. 85); after the Court granted the 5K1.1 Motion, Defendant's base offense level became 35. Defendant Jiminez orally moved for a variance to 144 months imprisonment, which the Court denied. (Dkt. 88).

The Court denied Defendant Jiminez' Motion for Sentence Reduction based on Amendment 782; the Court's review of the record showed that Defendant Jiminez does not qualify because Defendant's base offense level remained at 38. After consideration, the Court denies Defendant's Motion for Reconsideration. Defendant's base offense level remained at 38 based on the quantity of cocaine for which Defendant was held accountable; Defendant's offense level became 35 after adding levels based on the enhancement, and subtracting levels for acceptance of responsibility, and then granting a two-level departure. Accordingly, it is

ORDERED that pro se Defendant Jose Antonio Jiminez' Motion for Reconsideration (Dkt. 146) is **denied**.

DONE and ORDERED in Chambers in Tampa, Florida on this 13th day of August, 2018.



ELIZABETH A. KOVACHEVICH
United States District Judge

Copies to:
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