

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

UNITED STATES OF AMERICA

v.

Case No.: 14-cr-135-FtM-38CM

ANDREW CHIN

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**ORDER**<sup>1</sup>

This matter comes before the Court on the Motion by the United States for Reduction in Sentence Pursuant to [Fed. R. Crim. P. 35\(b\)](#) ([Doc. 270](#)), and Defendant Andrew Chin's response thereto ([Doc. 271](#)).<sup>2</sup> The Government's motion is thus ripe for review.

Within the last year, the Court sentenced Defendant Andrew Chin to 210 months' imprisonment for his role in a drug conspiracy. ([Doc. 268](#)). The Court imposed a sentence below the calculated Guidelines range based on Chin's unopposed motion for a variance. ([Doc. 269](#)). The Court varied because of, among other things, Chin's role in the offense and his history and characteristics, *i.e.*, drug dependence, employment record, family ties and responsibility, and lack of serious criminal record. ([Doc. 269 at 3](#)).

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<sup>1</sup> Disclaimer: Documents filed in CM/ECF may contain hyperlinks to other documents or websites. These hyperlinks are provided only for users' convenience. Users are cautioned that hyperlinked documents in CM/ECF are subject to PACER fees. By allowing hyperlinks to other websites, this Court does not endorse, recommend, approve, or guarantee any third parties or the services or products they provide on their websites. Likewise, the Court has no agreements with any of these third parties or their websites. The Court accepts no responsibility for the availability or functionality of any hyperlink. Thus, the fact that a hyperlink ceases to work or directs the user to some other site does not affect the opinion of the Court.

<sup>2</sup> The Court will consider Defendant's response despite its untimeliness. Defense counsel should not expect such leniency in the future.

The Government now moves to reduce Chin's sentence further because of his substantial assistance in prosecuting two other individuals. ([Doc. 270 at 1-2](#)).

[Federal Rule of Criminal Procedure 35\(b\)](#) governs a court's ability to reduce a sentence for substantial assistance. [Fed. R. Crim. P. 35\(b\)](#). It provides, "[u]pon the government's motion made within one year of sentencing, the court may reduce a sentence if the defendant, after sentencing, provided substantial assistance in investigating or prosecuting another person." *Id.* "A district court may reduce a sentence under Rule 35(b) 'only to reflect a defendant's subsequent, substantial assistance in the investigation or prosecution of another person[.]'" [United States v. Mora](#), -- F. App'x -- 2017 WL 3328032, at \*6 (11th Cir. Aug. 4, 2017) (quoting [United States v. Chavarria-Herrera](#), 15 F.3d 1033, 1037 (11th Cir. 1994)); see also [United States v. Manella](#), 86 F.3d 201, 204 (11th Cir. 1996) (stating "the only factor that may militate in favor of a [Rule 35\(b\)](#) reduction is the defendant's substantial assistance") (per curiam)). The court, of course, may limit the size of the reduction based on factors other than a defendant's substantial assistance. See [Manella](#), 86 F.3d at 204-05.

Here, the Court finds that Chin's cooperation qualifies as substantial assistance. He provided information to the Government that led to his co-conspirator's conviction,<sup>3</sup> and he provided information that helped lead to another individual being charged in state court for trafficking cocaine. The Court thus will grant an additional two-level reduction based on his cooperation. This results in a total offense level of 33, a criminal history category of V, and a Guidelines range of 210 to 262 months' imprisonment. Additionally,

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<sup>3</sup> The undersigned sentenced Chin's co-conspirator to fifty-seven months' imprisonment on October 2, 2017. See [United States v. Dicks](#), No. 2:16-cr-108-FtM-38CM.

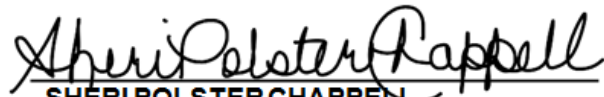
the Court finds it appropriate to apply the same two-level variance that it previously granted, resulting in a total offense level of 31. Consequently, the Court holds that a sentence of 168 months' imprisonment is sufficient, but not greater than necessary, to comply with the purposes of sentencing. All other components of the original sentence remain as originally imposed.

Accordingly, it is now

**ORDERED:**

- (1) The Motion by the United States for Reduction in Sentence Pursuant to [Fed. R. Crim. P. 35\(b\)](#) ([Doc. 270](#)) is **GRANTED**.
- (2) The Clerk of the Court is **DIRECTED** to enter an amended judgment reducing the sentence imposed to **168 months'** imprisonment as to Defendant Andrew Chin, and otherwise leaving all other components of the sentence as imposed in the previously entered judgment.

**DONE AND ORDERED** at Fort Myers, Florida, this December 29, 2017.

  
**SHERI POLSTER CHAPPELL**  
**UNITED STATES DISTRICT JUDGE**

Copies: Counsel of Record