

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

UNITED STATES OF AMERICA

v.

CASE NO: 2:17-cr-87-SPC-NPM

JOSE NUNEZ

ORDER

Before the Court are the United States Probation Office's Memorandum (Doc. 155) and Defendant Jose Nunez's Unopposed Motion for Sentence Reduction Under Amendment 821 (Doc. 159). Defendant is serving a 135-month sentence for a drug related offense. Defendant is eligible, however, for a sentence reduction under 18 U.S.C. § 3582(c)(2), U.S.S.G. § 1B1.10, and Part A of Amendment 821.

It used to be that a defendant who committed the instant offense while under any criminal justice sentence, including probation, parole, supervised release, imprisonment, work release, or escape status received two extra criminal history points. But Part A of Amendment 821 has changed that procedure. Now defendants can move to eliminate the extra points if they meet three criteria: (1) the defendant was assessed two status points under § 4A1.1(d) (now § 4A1.1(e)) and would no longer be assessed status points under the amended guideline; (2) the reduction of status points would reduce the defendant's criminal history category and result in a lower guideline range;

and (3) the defendant received a higher sentence than the minimum of the amended guideline range. Probation's Memorandum says Defendant meets all three, and a review of the record confirms so.

The Court originally calculated Defendant's total offense level to be 31 and his criminal history category to be III, which translated to an advisory guidelines range of 135 to 168 months. The Court sentenced Defendant to the low end of his guideline range—135 months of imprisonment.

Defendant's criminal history category is II under the amended guidelines (the total offense level remains unchanged). The new criminal history category would render a guidelines range of 121 to 151 months. The parties recommend that the Court again sentence him to the low end of his amended guideline range—121 months of imprisonment.

After considering Probation's Memorandum and the parties' recommendation against the record and applicable law, the Court will reduce Defendant's sentence by fourteen months under 18 U.S.C. § 3582(c)(2), U.S.S.G. § 1B1.10, and Part A of Amendment 821. The Court thus grants Defendant's Unopposed Motion.


Accordingly, it is

ORDERED:

1. Defendant Jose Nunez Unopposed Motion for Sentence Reduction Under Amendment 821 (Doc. 159) is **GRANTED**.

2. Defendant Jose Nunez's sentence is reduced to either 121 months of imprisonment or time served, whichever is greater. This Order is effective **November 5, 2024**.

DONE and ORDERED in Fort Myers, Florida on October 22, 2024.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

Copies: All parties of record