

**CASE NO.** \_\_\_\_\_

**IN THE SUPREME COURT OF THE UNITED STATES**

UNITED STATES OF AMERICA )

**Appellee** )

V. )

)

HAGOP DEMIRJIAN

Appellant )

1

APPENDIX TO  
INFORMAL PETITION FOR WRIT OF CERTIORARI  
FROM THE  
UNITED STATES COURT OF APPEALS  
FOR THE SEVENTH CIRCUIT

**Court of Appeals Docket #: 18-1446**

HAGOP DEMIRJIAN 10028-424

P.O. Box 5010

**Oakdale, La.**

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**APPENDICE "A"**

***MOTION FOR REDUCTION  
OF SENTENCE***

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS

UNITED STATES OF AMERICA, )  
Plaintiff/Respondent )  
 )  
v. ) CASE NO. 97 CR 789-3  
 )  
HAGOP DEMIRJIAN, )  
Defendant/Petitioner )

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**MOTION FOR REDUCTION OF SENTENCE PURSUANT  
TO 18 U.S.C. § 3582(c)(2)**

COMES NOW Defendant HAGOP DEMIRJIAN, PRO SE, and files this, the defendant's *Motion for Reduction of Sentence Pursuant to 18 U.S.C. § 3582(c)(2)*, and would show this Honorable Court as follows, to-wit:

**I. RELIEF REQUESTED**

Defendant HAGOP DEMIRJIAN moves under 18 U.S.C. § 3582(c)(2) for an order reducing the defendant's term of imprisonment from based on the retroactive Amendment 782.

**II. JURISDICTION**

This Court has jurisdiction to modify the defendant's sentence now under the plain language of 18 U.S.C. §3582(c)(2) which provides:

In the case of a defendant who has been sentenced to a term of imprisonment based on a sentencing range that has subsequently been lowered by the Sentencing Commission pursuant to 28 U.S.C. § 994(o), upon motion of the defendant, the director of the Bureau of Prisons, or on its own motion, the court may reduce the term of imprisonment, after considering the factors set

forth in section 3553(a) to the extent they are applicable, if such a reduction is consistent with applicable policy statements issued by the Sentencing Commission.

The predicate conditions conferring jurisdiction are met in this case. Defendant HAGOP DEMIRJIAN was sentenced based on a sentencing range that was subsequently lowered by two offense levels by the Sentencing Commission on November 1, 2007. See U.S.S.G. App. C, Amend. 782. The Sentencing Commission promulgated a policy statement making the reduction retroactive. The Amendment 782 became effective and is retroactive.

### **III. CONFERENCE**

The undersigned has not conferred with the United States Attorney's Office, but filed their official Response in the co-defendant's case. (see attached and incorporated)

### **IV. BASIS FOR RELIEF**

The Court, in essence, permitted the use of a drug quantity which impermissibly expanded the Indictment, was not pled in the Indictment and was never submitted to a jury for a unanimous verdict. The Supreme Court has condemned this exact methodology following in the *Apprendi, Gall, Booker, FanFan* and their progeny. In this instance, the Defendant was charged and convicted of 175 kilograms, which were found in his basement and owned by others, not him. This fact is borne out in this Court's handling of the kingpin of this case, Juan Almonacid, who received a sentence reduction, predicated upon the same Indictment, same quantity of cocaine and even had a demonstrated leadership role. In Mr. Almonacid's Motion, his appointed counsel stated:

"Mr. Almonacid is eligible for a sentence reduction because Amendment 782 effectively lowers the guideline range that is applicable to him. The PSR reflects that Mr. Almonacid was responsible for approximately 160 kilos of cocaine. Pursuant to U.S.S.G. § 2D1.1(c)(1) of the then-applicable Guidelines (November 2010), the base offense level for his conduct was 38. Mr. Almonacid received no enhancements or reductions. Mr. Almonacid was placed in criminal history category I. The combination of these factors yielded a guideline range of 235 to 293 months. Mr. Almonacid was sentenced to 235 months in prison." (see Case: 1:97-cr-00789 DocumentS, annexed hereto as Attachment "A")

Mr. Almonacid's counsel was prudent enough to contact the U.S. Attorney and gain their approval prior to filing the Motion and this Court granted the reduction. (see Case: 1:97-cr-00789 Document #: 251 Filed: 02/05/15 Page 1 of 1 Page ID #:413) This Court, in reducing Mr. Almonacid's sentence by fifty months, disregarded the same quantity of cocaine argued but not evidentially supported at trial, which was employed to deny this Defendant's similar Motion.

It is the disparity in treatment of similarly situated offenders, in the same prosecution which motors this Motion for relief. A sentencing court must consider "the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct." 18 U.S.C. § 3553(a)(6). Some sentencing disparities are reasonable, and others are not. *United States v. Meza*, 127 F.3d 545, 549 (7th Cir.1996). Disparities between co-defendants that result from use of the Guidelines are reasonable. *Id.* An unreasonable disparity is "a disparity in sentences that cannot be explained by a comparison of each defendant against the Guidelines as a set of rules." *Id.* at 550. *US v. Brown* 822 F. 3d 966 , 7th Circuit, 2016)

It must also be noted that the Defendant in this case insisted upon a trial, while Mr. Almonacid entered a guilty plea. Both defendants had no prior criminal history, however, Mr. Almonacid gained a lower sentence only because of his acceptance of responsibility and its ancillary reduction. In all other respects, the evidence and Indictments remain mirror images.

Further, there is no indication, at least from the record, that the procedures established in the N.D. of Illinois, were followed. There is no indication that counsels ever met or

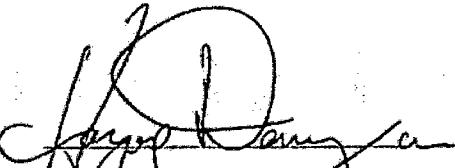
discussed the unwarranted disparity in treatment between this Defendant and Mr. Almonacid. Mr. Almonacid  
was the leader of the drug organization.

#### CONCLUSION

This Court has already reduced the term of imprisonment in Juan Almonacid's Judgment and to hold differently would create an unwarranted disparity.

WHEREFORE, PREMISES CONSIDERED, the defendant respectfully requests that this Court grant the *Motion for Reduction of Sentence Pursuant to 18 U.S.C. § 3582(c)(2)* and reduce the Defendant's sentence to 188 months.

Dated this 12<sup>th</sup> day of February, 2018.

By: 

HAQQ DEMIRJIAN 10028-424

P.O. Box 5010

Oakdale, La. 71463

# ATTACHMENT "A"

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

**DEFENDANT ALMONACID'S UNOPPOSED MOTION  
FOR A SENTENCE REDUCTION  
PURSUANT TO 18 U.S.C. §3582(C) AND  
U.S. SENTENCING GUIDELINE AMENDMENT 782**

Defendant JUAN ALMONACID, by the Federal Defender Program and its attorney Daniel Hesler, respectfully moves this Court, pursuant to 18 U.S.C. §3582(c) and §§ 1B1.10 and 2D1.1 of the sentencing guidelines, for an order reducing his term of imprisonment from 235 months down to 188 months. The government does not oppose this motion. In support of this motion, Mr. Almonacid states as follows:

1. Defendant is currently serving a term of imprisonment for an offense involving powder cocaine. On April 8, 2002, this Court sentenced Mr. Almonacid to a term of 235 months imprisonment. Mr. Almonacid has a present release date

<sup>2</sup> Title 18 U.S.C. § 3582(e) grants this Court jurisdiction to reduce the

term of incarceration for certain qualifying defendants:

In the case of a defendant who has been sentenced to a term of imprisonment based on a sentencing range that has subsequently been lowered by the Sentencing Commission pursuant to 28 U.S.C. § 994(o), upon motion of the defendant, . . . the court may reduce the term of imprisonment, after considering the factors set forth in section 3553(a) to the extent they are applicable, if such reduction is consistent with applicable policy statements issued by the Sentencing Commission.

3. On April 10, 2014, the United States Sentencing Commission unanimously approved a two-level reduction to the base offense level for all drug offenses. *See U.S.S.G. Appendix C, Amdt. 782.* After further study, on July 18, 2014, the Commission determined that Amendment 782 shall apply retroactively and included it among the operative amendments covered by § 1B1.10, which states:

In a case in which a defendant is serving a term of imprisonment, and the guideline range applicable to that defendant has subsequently been lowered as a result of an amendment to the Guidelines Manual listed in subsection (d) below, the court may reduce the defendant's term of imprisonment as provided by 18 U.S.C. § 3582(c).

§ 1B1.10(a)(1); *see also* § 1B1.10(d) (listing Amendment 782 as covered by the policy statement). United States Sentencing Guideline Amendment 782 became effective on November 1, 2014.

4. In addition, § 1B1.10(b)(1) suggests that, in determining whether and

to what extent, a reduction in defendant's term of imprisonment is warranted, "the court shall determine the amended guideline range that would have been applicable to the defendant if the amendment(s) to the guidelines... had been in effect at the time the defendant was sentenced."

5. Mr. Almonacid is eligible for a sentence reduction because Amendment 782 effectively lowers the guideline range that is applicable to him. The PSR reflects that Mr. Almonacid was responsible for approximately 160 kilos of cocaine. Pursuant to U.S.S.G. § 2D1.1(c)(1) of the then-applicable Guidelines (November 2010), the base offense level for his conduct was 38. Mr. Almonacid received no enhancements or reductions. Mr. Almonacid was placed in criminal history category I. The combination of these factors yielded a guideline range of 235 to 293 months. Mr. Almonacid was sentenced to 235 months in prison.

6. The current drug guidelines, which apply retroactively pursuant to Amendment 782, reduce the base offense level for Mr. Almonacid's drug quantity to 36. Combining this new offense level with Mr. Almonacid's criminal history and leaving all other sentencing calculations in place, the new total offense level is 36 and his new advisory range is 188 to 235 months.

7. In Mr. Almonacid's case, the Court originally sentenced Mr. Almonacid to a sentence at the low end of the guideline range. It is Mr.

Almonacid's present suggestion that a sentence at the low end of the new range is still appropriate, although he will not reap the full benefit of that reduction. This latest round of guidelines reductions has an effective date of November 1, 2015, and so Mr. Almonacid cannot get a real reduction greater than the 15 months that will bring him to that release date.<sup>1</sup> Nevertheless, the moral and legal principle encompassed in §3553's "sufficient but not greater than necessary" standard suggests that a within-guideline 188 month sentence would be sufficient for society's needs as well as Mr. Almonacid's. Moreover, a low-end sentence would be a good use of our national resources. As the Sentencing Commission reasoned:

"This amendment received unanimous support from Commissioners because it is a measured approach . . . [that] reduces prison costs and populations and responds to statutory and guidelines changes since the drug guidelines were initially developed, while safeguarding public safety."

8. The government, by AUSA Samuel Cole, has been consulted concerning this motion and has no objection to the proposed reduction in this case.

WHEREFORE, by retroactive application of Amendment 782 and pursuant to statutory provision § 3582(c) and § 1B1.10 of the guidelines, Mr. Almonacid moves for a reduction of his sentence and requests that this Court reduce his term of imprisonment from 235 months to 188 months in the custody of the BOP.

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<sup>1</sup>The AO 247 form that will be used as an agreed order in this case has a blank marked "effective date" that will be marked "11/01/2015" in this case to ensure that the sentence imposed will not be less than time served as of November 1, 2015.

Respectfully submitted,

**FEDERAL DEFENDER PROGRAM**  
**Carol A. Brook**  
**Executive Director**

By: /s/ Daniel J. Hesler  
Daniel J. Hesler

**DANIEL J. HESLER**  
**FEDERAL DEFENDER PROGRAM**  
**55 E. Monroe, Suite 2800**  
**Chicago, IL 60603**  
**(312) 621-8347**

**CERTIFICATE OF SERVICE**

The undersigned, Daniel J. Hesler, an attorney with the Federal Defender Program hereby certifies that in accordance with FED.R.CIV.P5, LR5.5, and the General Order on Electronic Case Filing (ECF), the following document(s):

**DEFENDANT ALMONACID'S MOTION FOR A SENTENCE  
REDUCTION PURSUANT TO 18 U.S.C. §3582(C) AND  
U.S. SENTENCING GUIDELINE AMENDMENT 782**

was served pursuant to the district court's ECF system as to ECF filings, if any, and were sent by first-class mail/hand delivery on January 27, 2015, to counsel/parties that are non-ECF filers.

By: /s/ Daniel J. Hesler  
Daniel J. Hesler

**FEDERAL DEFENDER PROGRAM  
55 E. Monroe St., Suite 2800  
Chicago, Illinois 60603  
(312) 621-8300**



UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS

UNITED STATES OF AMERICA )

Plaintiff )

v. )

CASE NO. 97 CR 789-3

HAGOP DEMIRJIAN. )

HON. JAMES B. ZAGEL

Defendant )

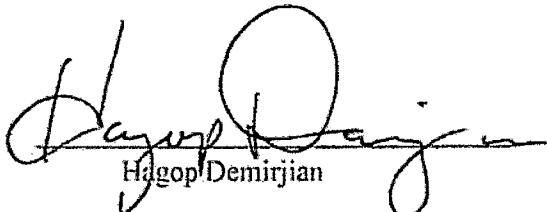
CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I have served a true and accurate copy of the annexed pleading upon the parties, by placing same in the United States mail, with first class postage fully prepaid, addressed to:

U.S. Attorney  
219 S. Dearborn Street  
Chicago, Illinois 60604

Dated this 12<sup>th</sup> day of February, 2018.

By:



Hagop Demirjian

HAGOP DEMIRJIAN 10028-424  
P.O. Box 5010  
Oakdale, La. 71463



UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

UNITED STATES OF AMERICA,

v.

HAGOP DEMIRJIAN.

No. 97 CR 789-3  
Judge James B. Zagel

MEMORANDUM OPINION AND ORDER

The defendant seeks a reduction of sentence. He went to trial and was found guilty of participating in a large drug conspiracy. He ran a storehouse for cocaine helping with handling 600 kilos of cocaine. He was the man who found a townhouse where cocaine could be stored. He paid the homeowner's unpaid mortgage and association fees. Demirjian helped unload the 600 kilos and store it in the basement. The guideline range was 360 months to life in prison.

Amendment 782 does not work out for Defendant. He cannot benefit because it does not lower the applicable guideline range. There is no different sentencing range other than the one under which he was sentenced. The evidence showed clearly that the amount of drugs with which he was dealing was 600 kilograms. He was at level 38 when he was sentenced, and it is his level now. The defendant places his emphasis on the fact that he was indicted for 175 kilos of powder cocaine and not 600 kilos. But, the prosecution can try to prove that the powder cocaine was larger than stated in the indictment. If it is proven (as it was in this case) that the powder cocaine with which Defendant was dealing was 600 kilos and not only 175 kilos, the Court can base its sentence, in part, on the fact that the cocaine in question was 600 kilos.

I have no authority to reduce the sentence I imposed. I deny Defendant's motion for reduction of sentence.

ENTER:



James B. Zagel  
United States District Judge

DATE: January 21, 2016

**APPENDICE “B”**

**JUAN ALMONACID**

***MOTION FOR REDUCTION***

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

UNITED STATES OF AMERICA      )  
                                    )  
                                    )      Judge James B. Zagel  
v.                                )  
                                    )      No. 97 CR 789  
JUAN ALMONACID      )  
                                    )

**DEFENDANT ALMONACID'S UNOPPOSED MOTION  
FOR A SENTENCE REDUCTION  
PURSUANT TO 18 U.S.C. §3582(C) AND  
U.S. SENTENCING GUIDELINE AMENDMENT 782**

Defendant JUAN ALMONACID, by the Federal Defender Program and its attorney Daniel Hesler, respectfully moves this Court, pursuant to 18 U.S.C. §3582© and §§ 1B1.10 and 2D1.1 of the sentencing guidelines, for an order reducing his term of imprisonment from 235 months down to 188 months. The government does not oppose this motion. In support of this motion, Mr. Almonacid states as follows:

1. Defendant is currently serving a term of imprisonment for an offense involving powder cocaine. On April 8, 2002, this Court sentenced Mr. Almonacid to a term of 235 months imprisonment. Mr. Almonacid has a present release date of February 16, 2017.
2. Title 18 U.S.C. § 3582© grants this Court jurisdiction to reduce the

term of incarceration for certain qualifying defendants:

In the case of a defendant who has been sentenced to a term of imprisonment based on a sentencing range that has subsequently been lowered by the Sentencing Commission pursuant to 28 U.S.C. § 994(o), upon motion of the defendant, . . . the court may reduce the term of imprisonment, after considering the factors set forth in section 3553(a) to the extent they are applicable, if such reduction is consistent with applicable policy statements issued by the Sentencing Commission.

3. On April 10, 2014, the United States Sentencing Commission unanimously approved a two-level reduction to the base offense level for all drug offenses. *See U.S.S.G. Appendix C, Amdt. 782.* After further study, on July 18, 2014, the Commission determined that Amendment 782 shall apply retroactively and included it among the operative amendments covered by § 1B1.10, which states:

In a case in which a defendant is serving a term of imprisonment, and the guideline range applicable to that defendant has subsequently been lowered as a result of an amendment to the Guidelines Manual listed in subsection (d) below, the court may reduce the defendant's term of imprisonment as provided by 18 U.S.C. § 3582(c).

§ 1B1.10(a)(1); *see also* § 1B1.10(d) (listing Amendment 782 as covered by the policy statement). United States Sentencing Guideline Amendment 782 became effective on November 1, 2014.

4. In addition, § 1B1.10(b)(1) suggests that, in determining whether and

to what extent, a reduction in defendant's term of imprisonment is warranted, "the court shall determine the amended guideline range that would have been applicable to the defendant if the amendment(s) to the guidelines . . . had been in effect at the time the defendant was sentenced."

5. Mr. Almonacid is eligible for a sentence reduction because Amendment 782 effectively lowers the guideline range that is applicable to him. The PSR reflects that Mr. Almonacid was responsible for approximately 160 kilos of cocaine. Pursuant to U.S.S.G. § 2D1.1(c)(1) of the then-applicable Guidelines (November 2010), the base offense level for his conduct was 38. Mr. Almonacid received no enhancements or reductions. Mr. Almonacid was placed in criminal history category I. The combination of these factors yielded a guideline range of 235 to 293 months. Mr. Almonacid was sentenced to 235 months in prison.

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Almonacid's present suggestion that a sentence at the low end of the new range is still appropriate, although he will not reap the full benefit of that reduction. This latest round of guidelines reductions has an effective date of November 1, 2015, and so Mr. Almonacid cannot get a real reduction greater than the 15 months that will bring him to that release date.<sup>1</sup> Nevertheless, the moral and legal principle encompassed in §3553's "sufficient but not greater than necessary" standard suggests that a within-guideline 188 month sentence would be sufficient for society's needs as well as Mr. Almonacid's. Moreover, a low-end sentence would be a good use of our national resources. As the Sentencing Commission reasoned:

"This amendment received unanimous support from Commissioners because it is a measured approach . . . [that] reduces prison costs and populations and responds to statutory and guidelines changes since the drug guidelines were initially developed, while safeguarding public safety."

8. The government, by AUSA Samuel Cole, has been consulted concerning this motion and has no objection to the proposed reduction in this case.

WHEREFORE, by retroactive application of Amendment 782 and pursuant to statutory provision § 3582(c) and § 1B1.10 of the guidelines, Mr. Almonacid moves for a reduction of his sentence and requests that this Court reduce his term of imprisonment from 235 months to 188 months in the custody of the BOP.

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<sup>1</sup>The AO 247 form that will be used as an agreed order in this case has a blank marked "effective date" that will be marked "11/01/2015" in this case to ensure that the sentence imposed will not be less than time served as of November 1, 2015.

Respectfully submitted,

**FEDERAL DEFENDER PROGRAM**  
**Carol A. Brook**  
**Executive Director**

By: /s/ Daniel J. Hesler  
**Daniel J. Hesler**

**DANIEL J. HESLER**  
**FEDERAL DEFENDER PROGRAM**  
**55 E. Monroe, Suite 2800**  
**Chicago, IL 60603**  
**(312) 621-8347**

**CERTIFICATE OF SERVICE**

The undersigned, Daniel J. Hesler, an attorney with the Federal Defender Program hereby certifies that in accordance with FED.R.CIV.P5, LR5.5, and the General Order on Electronic Case Filing (ECF), the following document(s):

**DEFENDANT ALMONACID'S MOTION FOR A SENTENCE  
REDUCTION PURSUANT TO 18 U.S.C. §3582(C) AND  
U.S. SENTENCING GUIDELINE AMENDMENT 782**

was served pursuant to the district court's ECF system as to ECF filings, if any, and were sent by first-class mail/hand delivery on January 27, 2015, to counsel/parties that are non-ECF filers.

By: /s/ Daniel J. Hesler  
Daniel J. Hesler

**FEDERAL DEFENDER PROGRAM  
55 E. Monroe St., Suite 2800  
Chicago, Illinois 60603  
(312) 621-8300**

**APPENDICE “C”**

**ORDER REDUCING**

**ALMONACID SENTENCE**

UNITED STATES DISTRICT COURT  
for the  
Northern District of Illinois

United States of America

v.

Juan Almonacid

)

) Case No: 97 CR 789-6

)

) USM No: 60249-004

)

Date of Original Judgment: 04/08/2002

)

) Daniel J. Hester

Date of Previous Amended Judgment:

) Defendant's Attorney

(Use Date of Last Amended Judgment if Any)

**ORDER REGARDING MOTION FOR SENTENCE REDUCTION  
PURSUANT TO 18 U.S.C. § 3582(c)(2)**

Upon motion of  the defendant  the Director of the Bureau of Prisons  the court under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u), and having considered such motion, and taking into account the policy statement set forth at USSG §1B1.10 and the sentencing factors set forth in 18 U.S.C. § 3553(a), to the extent that they are applicable,

**IT IS ORDERED** that the motion is:

DENIED.  GRANTED and the defendant's previously imposed sentence of imprisonment (as reflected in the last judgment issued) of 235 months is reduced to 188 months.

*(Complete Parts I and II of Page 2 when motion is granted)*

Except as otherwise provided, all provisions of the judgment dated  
**IT IS SO ORDERED.**

Order Date: 02/05/2015

04/08/2002 shall remain in effect.

*James B. Zajdel*  
Judge's signature

Effective Date: 11/01/2015  
(if different from order date)

James B. Zajdel, United States District Court Judge

Printed name and title

**APPENDICE "D"**

**GOVERNMENT**

**OPPOSITION TO**

***APPELLANT'S MOTION***

***FOR REDUCTION OF***

***SENTENCE***

Honorable John Robert Blakey

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
ORDER OF THE EXECUTIVE COMMITTEE**

It appearing that the Hon. James B. Zagel took senior status effective October 21, 2016 pursuant to 28 USC §294(b); and

It further appearing that 97cr789, *USA v. Rojas et al.*, is currently assigned to the Hon. James B. Zagel; and

It further appearing that Judge Zagel has requested that this case be reassigned to another judge of this Court pursuant to 28 USC §294(b); therefore

It is hereby ordered that 97cr789, *USA v. Rojas et al.*, is to be reassigned by lot to an active district judge of this Court, pursuant to IOP 13(c)(4).

**ENTER:**

**FOR THE EXECUTIVE COMMITTEE**



Hon. Rubén Castillo, Chief Judge

Dated at Chicago, Illinois this 21<sup>st</sup> day of February, 2018

**APPENDIX “E”**

**SEVENTH CIRCUIT**

**AFFIRMATION OF**

**DENIAL**

**United States Court of Appeals**  
For the Seventh Circuit  
Chicago, Illinois 60604

Submitted June 22, 2018\*

Decided June 25, 2018

**Before**

FRANK H. EASTERBROOK, *Circuit Judge*

AMY C. BARRETT, *Circuit Judge*

MICHAEL B. BRENNAN, *Circuit Judge*

No. 18-1446

UNITED STATES OF AMERICA,  
*Plaintiff-Appellee,*

Appeal from the United States  
District Court for the Northern District  
of Illinois, Eastern Division.

*v.*

HAGOP DEMIRJIAN,  
*Defendant-Appellant.*

No. 97 CR 789-3

Manish S. Shah,  
*Judge.*

**ORDER**

Hagop Demirjian appeals the denial of his second motion for a lower prison sentence based on a retroactive amendment to the Sentencing Guidelines. The district court properly denied his successive motion, however, so we affirm the judgment.

In 1999, a federal jury convicted Demirjian of conspiring to distribute cocaine, *see* 21 U.S.C. §§ 846, 841(a)(1), and possessing cocaine with intent to distribute it, *see id.* § 841(a)(1). The district court found Demirjian responsible for 600 kilograms of

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\* We have agreed to decide this case without oral argument because the appeal is frivolous. *See* FED. R. APP. P. 34(a)(2)(A).

No. 18-1446

Page 2

cocaine, resulting in a base offense level of 38. *See U.S.S.G. § 2D1.1(c)(1)* (1998). The court calculated his Guidelines range as 360 months to life and sentenced him to 360 months in prison. Demirjian then unsuccessfully pursued a direct appeal and three collateral attacks.

In 2014, Demirjian moved for a sentence reduction under 18 U.S.C. § 3582(c)(2), which authorizes the district court to reduce an imprisonment term when the United States Sentencing Commission lowers the base offense level for a particular offense. *Hughes v. United States*, \_\_ S. Ct. \_\_, No. 17-155, 2018 WL 2465187, at \*5 (June 4, 2018). He relied on Amendment 782, a retroactive amendment to the Guidelines that lowered the base offense level for most drug crimes. *See U.S.S.G. Supp. to App. C, Amend. 782* (2014). But Judge Zagel, the assigned judge at the time, concluded that the amendment did not alter Demirjian's base offense level—he was responsible for 600 kilograms of cocaine, still well above the increased threshold of 450 kilograms to earn a base offense level of 38, *see id.* In turn, his sentencing range remained 360 months to life, so he was ineligible for a sentence reduction. We dismissed Demirjian's appeal from that decision as untimely. *United States v. Demirjian*, No. 16-1646 (7th Cir. dismissed June 7, 2016). He then asked the district court to reconsider its decision. Judge Shah, to whom the case was reassigned after Judge Zagel took senior status, denied the motion.

Undeterred, Demirjian filed a second § 3582(c)(2) motion, which is the subject of this appeal. In it, he argued for the first time that he should have received the same sentence reduction that a codefendant received. Judge Shah denied the motion, explaining that only one motion per retroactive Guidelines amendment is permitted.

On appeal, Demirjian argues that no *jurisdictional* limit exists on a district court's ability to consider a successive § 3582(c)(2) motion. Although he is correct, *see United States v. Taylor*, 778 F.3d 667, 669–70 (7th Cir. 2015), he misunderstands the district court's ruling in his case. Without invoking "jurisdiction," the court properly concluded that Demirjian already had used his one chance to pursue a sentence reduction under Amendment 782. *See United States v. Beard*, 745 F.3d 288, 292 (7th Cir. 2014); *United States v. Redd*, 630 F.3d 649, 651 (7th Cir. 2011).

AFFIRMED