

Appendix A

1 of 1

FILED: December 14, 2021

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 20-7915
(8:14-cr-00006-PWG-1)

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

ALIMAMY BARRIE

Defendant - Appellant

ORDER

The petition for rehearing en banc was circulated to the full court. No judge requested a poll under Fed. R. App. P. 35. The court denies the petition for rehearing en banc.

For the Court

/s/ Patricia S. Connor, Clerk

Appendix B

1 of 3

FILED: November 2, 2021

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 20-7915
(8:14-cr-00006-PWG-1)

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

ALIMAMY BARRIE

Defendant - Appellant

J U D G M E N T

In accordance with the decision of this court, the judgment of the district court is affirmed.

This judgment shall take effect upon issuance of this court's mandate in accordance with Fed. R. App. P. 41.

/s/ PATRICIA S. CONNOR, CLERK

Appendix B

2 of 3

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 20-7915

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ALIMAMY BARRIE,

Defendant - Appellant.

Appeal from the United States District Court for the District of Maryland, at Greenbelt.
Paul W. Grimm, District Judge. (8:14-cr-00006-PWG-1)

Submitted: October 22, 2021

Decided: November 2, 2021

Before FLOYD, THACKER, and HARRIS, Circuit Judges.

~~Affirmed by unpublished per curiam opinion.~~

Alimamy Barrie, Appellant Pro Se. Ellen Nazmy, OFFICE OF THE UNITED STATES
ATTORNEY, Greenbelt, Maryland, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

Appendix B

3 of 3

PER CURIAM:

Alimamy Barrie appeals the district court's orders denying his motion to review sentence. We have reviewed the record and find no reversible error. Accordingly, we affirm for the reasons stated by the district court. *See United States v. Barrie*, No. 8:14-cr-00006-PWG-1 (D. Md. Dec. 7, 2020; Nov. 6, 2020). We deny Barrie's pending motion to expedite as moot. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLANDCHAMBERS OF
PAUL W. GRIMM
UNITED STATES DISTRICT JUDGE6500 CHERRYWOOD LANE
GREENBELT, MARYLAND 20770
(301) 344-0670
(301) 344-3910 FAX

December 7, 2020

RE: *United States v. Barrie*,
PWG-14-006**AMENDED LETTER ORDER¹**

Dear Parties:

Defendant Alimamy Barrie, proceeding *pro se*, has filed a Motion to Review Sentence, ECF No. 183-1. He requests that the Court reduce his sentence in light of the United States Sentencing Commission's enactment of Amendments 791, 792, and 794 to the Sentencing Guidelines. Mr. Barrie argues that these are "clarifying amendments," and thus apply retroactively, affording him relief because failure to apply the amendments to his sentence constitutes plain error under Fed. R. Crim. P. 52(b). ECF No. 183-1 at 2-3. The Government has opposed Mr. Barrie's motion, arguing it is procedurally barred under *United States v. Goodwyn*, 596 F.3d 233 (4th Cir. 2010) as a successive 18 U.S.C. § 3582(c)(2) motion or, alternatively, that Mr. Barrie's motion fails on the merits. I agree with the Government and will deny Mr. Barrie's motion.

The facts of this case have been fully set forth in previous orders, including the Court's December 4, 2017 order denying a similar motion from Mr. Barrie (ECF No. 156), and thus do not require exhaustive repetition here. But the pertinent facts are that, on September 29, 2017, Mr. Barrie filed a motion to reduce his sentence under § 3582(c)(2), arguing that Amendments 791, 792, and 794 entitled him to relief. ECF No. 151. The Government opposed the motion, and I denied it. ECF Nos. 153, 156. Mr. Barrie then appealed my order and the Fourth Circuit summarily affirmed my decision. ECF No. 162. After the Supreme Court denied his petition for certiorari, Mr. Barrie filed a motion for reconsideration before me, which I denied; the Fourth Circuit affirmed my order, and the Supreme Court declined to hear an appeal of the Fourth Circuit's decision. ECF Nos. 164, 168, 169, 172, 181.

In terms of a procedural bar to Mr. Barrie's motion, I agree with the Government that while Mr. Barrie frames his claim within Fed. R. Crim. P. 52(b), his motion is another attempt at his earlier motion to reduce under § 3582(c)(2). The Government is correct that the Fourth Circuit views such motions unfavorably. *United States v. Goodwyn*, 596 F.3d 233, 236 (4th Cir. 2010)

¹ The Court first issued this order on November 6, 2020. On November 17, 2020, Mr. Barrie filed a reply to the Government's opposition (ECF No. 190), which the Court has reviewed. The Court declines to reconsider its November 6th decision in light of the arguments raised in the reply.

("As the clear intent of § 3582 is to *constrain* postjudgment sentence modifications, we hold that this silence precludes . . . an interpretation that would permit unlimited motions for reconsideration over an unspecified period of time."). Having previously denied Mr. Barrie's earlier Motion for Reconsideration, I see no compelling reason to deviate from my earlier decision. Accordingly, I DENY Mr. Barrie's Motion to Review Sentence.

Although informal, this is an order of the court and the Clerk's office is directed to docket it as such. The Clerk's office is further directed to mail a copy of this order to Mr. Barrie's address of record.

Sincerely,

/S/
Paul W. Grimm
United States District Judge

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLANDCHAMBERS OF
PAUL W. GRIMM
UNITED STATES DISTRICT JUDGE6500 CHERRYWOOD LANE
GREENBELT, MARYLAND 20770
(301) 344-0670
(301) 344-3910 FAX

November 6, 2020

RE: *United States v. Barrie*,
PWG-14-006**LETTER ORDER**

Dear Parties:

Defendant Alimamy Barrie, proceeding *pro se*, has filed a Motion to Review Sentence, ECF No. 183-1. He requests that the Court reduce his sentence in light of the United States Sentencing Commission's enactment of Amendments 791, 792, and 794 to the Sentencing Guidelines. Mr. Barrie argues that these are "clarifying amendments," and thus apply retroactively, affording him relief because failure to apply the amendments to his sentence constitutes plain error under Fed. R. Crim. P. 52(b). ECF No. 183-1 at 2-3. The Government has opposed Mr. Barrie's motion, arguing it is procedurally barred under *United States v. Goodwyn*, 596 F.3d 233 (4th Cir. 2010) as a successive 18 U.S.C. § 3582(c)(2) motion or, alternatively, that Mr. Barrie's motion fails on the merits. I agree with the Government and will deny Mr. Barrie's motion.

The facts of this case have been fully set forth in previous orders, including the Court's December 4, 2017 order denying a similar motion from Mr. Barrie (ECF No. 156), and thus do not require exhaustive repetition here. But the pertinent facts are that, on September 29, 2017, Mr. Barrie filed a motion to reduce his sentence under § 3582(c)(2), arguing that Amendments 791, 792, and 794 entitled him to relief. ECF No. 151. The Government opposed the motion, and I denied it. ECF Nos. 153, 156. Mr. Barrie then appealed my order and the Fourth Circuit summarily affirmed my decision. ECF No. 162. After the Supreme Court denied his petition for certiorari, Mr. Barrie filed a motion for reconsideration before me, which I denied; the Fourth Circuit affirmed my order, and the Supreme Court declined to hear an appeal of the Fourth Circuit's decision. ECF Nos. 164, 168, 169, 172, 181.

In terms of a procedural bar to Mr. Barrie's motion, I agree with the Government that while Mr. Barrie frames his claim within Fed. R. Crim. P. 52(b), his motion is another attempt at his earlier motion to reduce under § 3582(c)(2). The Government is correct that the Fourth Circuit views such motions unfavorably. *United States v. Goodwyn*, 596 F.3d 233, 236 (4th Cir. 2010) ("As the clear intent of § 3582 is to *constrain* postjudgment sentence modifications, we hold that this silence precludes . . . an interpretation that would permit unlimited motions for reconsideration over an unspecified period of time."). Having previously denied Mr. Barrie's earlier Motion for