IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 21-12112-JJ

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

JERRY JOSEPH HIGDON, JR.,

Defendant - Appellant.

Appeal from the United States District Court
for the Middle District of Alabama

ON PETITION(S) FOR REHEARING AND PETITION(S) FOR REHEARING EN BANC

BEFORE: JILL PRYOR, BRANCH, and MARCUS, Circuit Judges.

PER CURIAM:

The Petition for Rehearing En Banc is DENIED, no judge in regular active service on the Court having requested that the Court be polled on rehearing en banc. (FRAP 35) The Petition for Panel Rehearing is also denied. (FRAP 40)

ORD-46

[DO NOT PUBLISH]

In the United States Court of Appeals

For the Eleventh Circuit

No. 21-12112

Non-Argument Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JERRY JOSEPH HIGDON, JR.,

Defendant-Appellant.

Appeal from the United States District Court
for the Middle District of Alabama
D.C. Docket No. 2:03-cr-00043-WKW-1

Before JILL PRYOR, BRANCH, and MARCUS, Circuit Judges.

PER CURIAM:

Jerry Joseph Higdon, Jr., a federal prisoner proceeding *pro se*, appeals the district court's partial denial of his motion to reduce his sentence, brought under 18 U.S.C. § 3582(c)(2), its denial of his motion to "exonerate" him based on the court's lack of jurisdiction, and its denial of his motion to compel the government to respond to his motion to "exonerate." On appeal, he argues that: (1) the district court erred in denying, in part, his motion to reduce his sentence because it should have converted his individual sentences to run concurrently, rather than consecutively, and it should have reduced his sentence on Count 10; and (2) the district court erred in denying his motion "to exonerate" and his motion to compel because the district court lacked jurisdiction to convict him. After thorough review, we affirm.

I.

The relevant background is this. In 2003, Higdon was convicted of three counts of distributing methamphetamine, in violation of 21 U.S.C. § 841(a)(1) and 18 U.S.C. § 2 (Counts 2–4) and one count of committing a drive-by shooting in furtherance of a major drug trafficking offense, in violation of 18 U.S.C. § 36 (Count 10). The presentence investigation report ("PSI") found that his guideline range was life imprisonment, subject to statutory maximum terms of 40 years (480 months) as to each of Counts 2 through 4;

and 25 years (300 months) as to Count 10. The district court sentenced Higdon to a total of 480 months' imprisonment as to each of Counts 2 through 4, each to run consecutively; and 300 months as to Count 10, to run consecutively. His total sentence was 1,740 months or 145 years' imprisonment. He challenged this sentence, without success, on direct appeal and in a subsequent motion to vacate his total sentence under 28 U.S.C. § 2255, which the district court denied on the merits.

Later, Higdon moved the district court to reduce his total sentence, to "exonerate" him and release him from imprisonment, and to compel the government to respond to his motion "to exonerate." The district court granted his motion for a sentence reduction, in part, as to Counts 2–4, but denied it as to Count 10, reducing his total sentence from 145 years' imprisonment to 115 years' imprisonment. The court denied his remaining motions. Higdon now appeals.

II.

We review *de novo* a district court's legal conclusions about the Sentencing Guidelines and the scope of its authority under 18 U.S.C. § 3582(c)(2). *United States v. Davis*, 587 F.3d 1300, 1303 (11th Cir. 2009). However, we review arguments brought for the first time on appeal by criminal defendants for plain error only. *See United States v. Anderson*, 1 F.4th 1244, 1268 (11th Cir. 2021); *see also United States v. Fair*, 326 F.3d 1317, 1318 (11th Cir. 2003) (holding that a § 3582(c)(2) motion is criminal in nature). To establish plain error, the defendant must show (1) an error, (2) that is plain,

and (3) that affected his substantial rights. *United States v. Turner*, 474 F.3d 1265, 1276 (11th Cir. 2007). If the defendant satisfies these conditions, we may exercise our discretion to recognize the error only if it seriously affects the fairness, integrity, or public reputation of judicial proceedings. *Id.* For an asserted error to be plain, it must be clear from the plain meaning of a statute or constitutional provision, or from a holding of the Supreme Court or this Court. *United States v. Morales*, 987 F.3d 966, 976 (11th Cir.), *cert. denied*, 142 S. Ct. 500 (2021). We construe *pro se* pleadings liberally, but all litigants must comply with applicable procedural rules. *United States v. Padgett*, 917 F.3d 1312, 1316–17 (11th Cir. 2019).

When it comes to jurisdictional issues, we review the district court's legal conclusions *de novo* and, subject to certain exceptions not relevant here, its findings of fact for clear error. *Calderon v. Baker*, 771 F.3d 807, 810 (11th Cir. 2014). More generally, a district court has the inherent power to manage its docket, and we will review the exercise of that power for abuse of discretion. *State Exch. Bank v. Hartline*, 693 F.2d 1350, 1352 (11th Cir. 1982).

III.

First, we are unpersuaded by Higdon's claim that the district court erred in denying, in part, his motion for a sentence reduction. Ordinarily, a district court may not modify a defendant's term of imprisonment once it has been imposed. 18 U.S.C. § 3582(c). However, a district court may reduce a defendant's sentence if the term of imprisonment was "based on a sentencing range that has subsequently been lowered by the Sentencing Commission." *Id.*

§ 3582(c)(2); *see also* U.S.S.G. § 1B1.10(a)(1). The defendant bears the burden of showing that he is entitled to this relief. *See United States v. Hamilton*, 715 F.3d 328, 337 (11th Cir. 2013).

The grounds upon which a district court may reduce a defendant's sentence pursuant to § 3582(c)(2) are narrow. *United States v. Berry*, 701 F.3d 374, 376 (11th Cir. 2012). For a defendant to be eligible for a reduction, the Sentencing Commission must have amended the guideline at issue, that amendment must have lowered the defendant's sentencing range, and the amendment must also be listed in U.S.S.G. § 1B1.10(d). *See* 18 U.S.C. § 3582(c)(2); U.S.S.G. § 1B1.10(a)(1) & comment. (n.1(A)). The applicable guideline range is a defendant's guideline range before any departures or variances. U.S.S.G. § 1B.10 comment. (n.1(A)). When determining the extent to which a reduction in a defendant's term of imprisonment is warranted under § 3582(c)(2), a court "shall determine the amended guideline range that would have been applicable to the defendant if the amendment(s) . . . had been in effect at the time the defendant was sentenced," but "shall leave all other guideline application decisions unaffected." *Id.* § 1B1.10(b)(1). Accordingly, "[w]here a retroactively applicable guideline amendment reduces a defendant's base offense level, but does not alter the sentencing range upon which his or her sentence was based, § 3582(c)(2) does not authorize a reduction in sentence." *Hamilton*, 715 F.3d at 337 (quotations omitted).

Amendment 782 is one of the listed amendments that applies retroactively, so it may serve as the basis for a § 3582(c)(2)

motion to reduce sentence. *Id.* § 1B1.10(a)(1), (d). Amendment 782 revises the drug quantity tables in U.S.S.G. § 2D1.1, resulting in a two-level reduction to the base offense level applicable to most drug offenses. *Id.* App. C, Amend. 782 (2014). As relevant here, following Amendment 782, § 2D1.1 now provides a base offense level of 34 for offenses involving possession of between 10,000 and 30,000 kilograms of marijuana. U.S.S.G. § 2D1.1(c)(2). Accordingly, if Higdon were sentenced today, application of the same base offense level and enhancements he originally received would result in a total offense level of 42. *See id.* §§ 2D1.1(b)(2) (two levels); 3B1.1(a) (four levels); 3C1.1 (two levels). A defendant with a total offense level of 42 and criminal history category of I has a guideline range of 360 months to life imprisonment. *See id.*, Sentencing Table. The statutory maximum term of imprisonment under 18 U.S.C. § 36(b) is 25 years (300 months), and the maximum is 40 years (480 months) under 21 U.S.C. § 841(a)(1). 18 U.S.C. § 36(b); 21 U.S.C. § 841(b)(1)(B).

U.S.S.G. § 5G1.2(d) provides: "[i]f the sentence imposed on the count carrying the highest statutory maximum is less than the total punishment, then the sentence imposed on one or more of the other counts shall run consecutively, but only to the extent necessary to produce a combined sentence equal to the total punishment." U.S.S.G. § 5G1.2(d). A defendant's "total punishment" is calculated as follows: "[t]he combined length of the sentences ('total punishment') is determined by the court after determining the adjusted combined offense level and the Criminal History

Category and determining the defendant's guideline range on the Sentencing Table." *Id.* § 5G1.2(d), comment. (n.1). We have interpreted § 5G1.2(d) to "require[] that sentences run consecutively to the extent necessary to reach the defendant's guidelines range." *United States v. Johnson*, 451 F.3d 1239, 1243 (11th Cir. 2006); *see also United States v. Sarras*, 575 F.3d 1191, 1208–09 (11th Cir. 2009).

The Supreme Court has indicated that a district court cannot, under § 3582(c)(2), modify a defendant's existing consecutive sentences to run concurrently. *See Dillon v. United States*, 560 U.S. 817, 831 (2010). There, the Supreme Court rejected the appellant's argument that the district court, in a § 3582(c)(2) proceeding, should have corrected the sentencing court's treatment of the Guidelines as mandatory, as well as its finding concerning his criminal history category. *Id.* It noted, in that respect, that "§ 3582(c)(2) does not authorize a resentencing . . . [because the] relevant policy statement instructs that a court . . . 'shall substitute' the amended Guidelines range for the initial range 'and shall leave all other guideline application decisions unaffected.'" *Id.* We have no binding precedent addressing whether a district court can, under § 3582(c)(2), modify a defendant's existing consecutive sentences to run concurrently.

Here, in his § 3582(c)(2) proceeding, Higdon did not raise his first claim on appeal -- that when it resentenced him, the district court should have reclassified his individual sentences for each count of conviction to run concurrent with, as opposed to consecutive to one another. Therefore, we review this claim on appeal

for plain error only. *See Anderson*, 1 F.4th at 1268. Under that standard of review, we can find no plain error because we have no binding precedent expressly determining whether a district court may modify a defendant's existing consecutive sentences to run concurrently. *See Morales*, 987 F.3d at 976 (holding that an error constitutes plain error where the error is clear from the plain meaning of a statute or constitutional provision, or from a holding of the Supreme Court or this Court). If anything, the Supreme Court has suggested that the district court lacked the discretion to convert Higdon's existing consecutive sentences to run concurrently, when it said that, in a § 3582(c)(2) proceeding, a district court must leave unaffected "all . . . guideline application decisions" other than an amended guideline range. *See Dillon*, 560 U.S. at 831.

Higdon also argues that the district court erred when it declined to reduce his sentence on Count 10, the count that charged him with committing a drive-by shooting in furtherance of a major drug trafficking offense, in violation of 18 U.S.C. § 36. Again, we disagree. As the record reflects, Higdon's amended total offense level of 42, when combined with a criminal history category of I, produced a guideline range of 360 months to life, which was still in excess of the 300-month statutory maximum that he was sentenced to under 18 U.S.C. § 36. This means that the amended guidelines did not change Higdon's guideline range as to Count 10, and the court lacked the authority to order a sentence reduction in that respect. *See Hamilton*, 715 F.3d at 337. Thus, the court did not err in denying Higdon's motion for a sentence reduction.

Similarly, we find no merit to Higdon's challenges to the district court's denial of his motion "to exonerate" or its denial of his motion to compel the government to respond to the motion "to exonerate." In construing *pro se* pleadings, federal courts must "look behind the label of a motion filed by a *pro se* inmate and determine whether the motion is, in effect, cognizable under a different remedial statutory framework." *United States v. Jordan*, 915 F.2d 622, 624–25 (11th Cir. 1990). However, all litigants must comply with the applicable procedural rules, and we will not "serve as *de facto* counsel for a party or . . . rewrite an otherwise deficient pleading in order to sustain an action." *Padgett*, 917 F.3d at 1316–17. Further, while 28 U.S.C. § 2255 serves as the primary method of collateral attack on the validity of a federal sentence, *Jordan*, 915 F.2d at 629, if a petitioner does not receive authorization to file a second or successive petition, the district court lacks jurisdiction to consider it. *See United States v. Burton*, 549 U.S. 147, 153 (2007).

If the district court lacks subject matter jurisdiction, it has no power to render a judgment on the merits, and it must dismiss the claim without prejudice. *Stalley v. Orlando Reg'l Healthcare Sys., Inc.*, 524 F.3d 1229, 1234–35 (11th Cir. 2008). We may *sua sponte* modify a district court's judgment that is lawfully before us. 28 U.S.C. § 2106.

For starters, because Higdon's post-conviction "motion to exonerate" sought to invalidate his underlying convictions, it should have been construed as a § 2255 motion. *See Jordan*, 915 F.2d at 624–25, 629. Yet as a § 2255 motion, it was a successive one

the district court lacked jurisdiction to consider, because the district court had already denied Higdon's earlier § 2255 motion on the merits, and he did not receive our authorization to proceed with any new § 2255 motion. *See Burton*, 549 U.S. at 153. Thus, the district court lacked jurisdiction to consider his motion, and we affirm, construing the district court's order denying his motion "to exonerate" as a dismissal without prejudice for lack of jurisdiction. *See* 28 U.S.C. § 2106.

Finally, the district court did not abuse its discretion in denying Higdon's motion to compel the government to respond to his earlier motion "to exonerate," because the court was able to determine, without awaiting a response, that his legal arguments were meritless. Accordingly, we affirm.

AFFIRMED.

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

UNITED STATES OF AMERICA	)	
	)	
v.	)	CASE NO. 2:03-CR-43-WKW
	)	[WO]
JERRY JOSEPH HIGDON, JR.	)	

MEMORANDUM OPINION AND ORDER

Before the court is Defendant Jerry Joseph Higdon, Jr.'s *pro se* motion for reduction of sentence under 18 U.S.C. § 3582(c)(2) based upon Amendments 782 and 788 to the United States Sentencing Guidelines ("U.S.S.G."). (Doc. # 191.) Amendment 782, in conjunction with Amendment 788, retroactively reduced by two levels the base offense levels for most drug quantities in U.S.S.G. § 2D1.1(c). Defendant's motion was referred to this district's Retroactivity Screening Panel ("Panel") for a recommendation on whether he is eligible for a sentencing reduction under § 3582(c)(2) and Amendments 782 and 788. The Panel was unable to reach a unanimous recommendation.

For the reasons that follow, Defendant is eligible for a sentence reduction on Counts 2, 3, and 4, and the sentence on those counts will be reduced. However, he is not eligible for a sentence reduction on Count 10. Accordingly, Defendant's motion is due to be granted in part and denied in part.

I. BACKGROUND

In May 2003, a jury convicted Defendant on two counts of distribution of ice methamphetamine, in violation of 21 U.S.C. § 841(a)(1) and 18 U.S.C. § 2 (Counts 2 and 3); one count of possession with intent to distribute ice methamphetamine, in violation of § 841(a)(1) and § 2 (Count 4); and one count for a drive-by shooting, in violation of § 841(a)(1), § 2, and 18 U.S.C. § 36(b).

In September 2003, the court sentenced Defendant.[1] For purposes of calculating the sentence, Counts 2, 3, and 4 were grouped together, and Count 10 was grouped with Counts 2–4. *See* U.S.S.G. § 3D1.2(d). Based on this grouping, a single guideline—U.S.S.G. § 2D1.1—determined the guideline range for each count of conviction. Applying § 2D1.1, the court held Defendant accountable for specified quantities of ice, actual methamphetamine, methamphetamine, and marijuana. Because more than one drug was involved, the court calculated Defendant's base offense level by converting the drugs to their marijuana equivalents. Under the November 1, 2002 Guidelines Manual in effect when Defendant was sentenced, *see* U.S.S.G. § 1B1.11(a), the marijuana equivalency conversion was approximately 20,069 kilograms and produced a base offense level of 36. *See* U.S.S.G. § 2D1.1(a)(3) & (c)(4) (Nov. 2002); (Sentencing Tr., at 84.)

[1] This case was reassigned to the undersigned after the trial and sentencing.

The court then applied a 2-level increase for possession of a firearm, *see* U.S.S.G. § 2D1.1(b)(2), a 4-level aggravated role adjustment, *see* U.S.S.G. § 3B1.1(a), and a 2-level adjustment for obstruction of justice, *see* U.S.S.G. § 3C1.1. (*See* Sentencing Tr., at 84–86.) Defendant's total offense level was 44, and he had a criminal history category of I. (Sentencing Tr., at 87.)

Defendant's guideline range of imprisonment would have been life. However, the statutory maximum penalty on each of Counts 2, 3, and 4 was 40 years, and the statutory maximum penalty on Count 10 was 25 years. Because the guideline range of life exceeded the statutory maximum penalties, the guideline range was reset to 40 years on Counts 2, 3, and 4, and to 25 years on Count 10. *See* U.S.S.G. § 5G1.1(a) ("Where the statutorily authorized maximum sentence is less than the minimum of the applicable guideline range, the statutorily authorized maximum sentence shall be the guideline sentence.").

Defendant was sentenced to a term of imprisonment of 145 years. The sentence consisted of 40 years on each of Counts 2, 3, and 4, and 25 years on Count 10, all to be served consecutively. (Doc. # 145, at 2.)

More than a decade after Defendant's sentence was imposed, the Sentencing Commission promulgated Amendment 782. Amendment 782 reduced by two levels the base offense levels for most drug quantities in § 2D1.1(c). *See* U.S.S.G. Supp. to App. C, amend. 782 at 64–74, amend. 788, at 86–88 (Nov. 1, 2014). Amendment

788, by including Amendment 782 on the list of amendments in U.S.S.G. § 1B1.10(d), made Amendment 782 retroactive, effective November 1, 2014, so as to lower sentences of qualifying previously sentenced inmates.

In 2018, Defendant filed a *pro se* motion to modify his sentence under § 3582(c)(2), alleging that Amendment 782 applied retroactively and reduced his sentence.

II. DISCUSSION

"Federal courts are forbidden, as a general matter, to modify a term of imprisonment once it has been imposed, but the rule of finality is subject to a few narrow exceptions." *Freeman v. United States*, 564 U.S. 522, 526 (2011) (internal citation and quotation marks omitted), *holding modified on other grounds by Hughes v. United States*, 138 S. Ct. 1765 (2018). Section 3582(c)(2) supplies one of those narrow exceptions. It gives the district court discretion to modify a previously imposed sentence in the following circumstance:

> [I]n 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 that they are applicable, if such a reduction is consistent with applicable policy statements issued by the Sentencing Commission.

§ 3582(c)(2). "[A] § 3582(c)(2) proceeding is not a de novo re-sentencing," however. *United States v. Jules*, 595 F.3d 1239, 1245 (11th Cir. 2010); *see also*

§ 1B1.10(a)(3) ("[P]roceedings under 18 U.S.C. [§] 3582(c)(2) and this policy statement do not constitute a full resentencing of the defendant.").

The Supreme Court of the United States has condensed the § 3582(c)(2) inquiry to two steps. Step one examines a defendant's eligibility for a sentence reduction and, where eligibility is met, the extent of the reduction authorized. "At step one, § 3582(c)(2) requires the court to follow the Commission's instructions in § 1B1.10 to determine the prisoner's eligibility for a sentence modification and the extent of the reduction authorized." *Dillon v. United States*, 560 U.S. 817, 827 (2010). The court calculates the impact of the applicable retroactive guideline amendment on the sentencing range and leaves intact all other original sentencing findings. *See id.* (citing § 1B1.10(b)(1)). The guideline amendment must lower the "applicable guideline range," which is "the guideline range that corresponds to the offense level and criminal history category determined pursuant to § 1B1.1(a), which is determined before consideration of any departure provision in the Guidelines Manual or any variance." § 1B1.10, comment. (n.1(A)).

Step two involves the district court's analysis of the § 3553(a) factors. The district court "consider[s] any applicable § 3553(a) factors and determine[s] whether, in its discretion, the reduction authorized by reference to the policies relevant at step one is warranted in whole or in part under the particular circumstances of the case." *Dillon*, 560 U.S. at 827. Also relevant at step two are

"public safety considerations[] and the defendant's post-sentencing conduct." *United States v. Smith*, 568 F.3d 923, 927 (11th Cir. 2009) (cleaned up).

The discussion is divided into two parts. Defendant's eligibility for a sentence reduction under § 3582(c)(2) is established in the first part. The second part assesses the § 3553(a) and other factors.

A. Defendant is eligible for a sentence reduction under § 3582(c)(2) on Counts 2, 3, and 4, but not on Count 10.

The base offense level for the offenses charged in Counts 2, 3, 4, and 10 is found in U.S.S.G. § 2D1.1(c). Amendment 782 reduced by two levels the base offense level in the Drug Quantity Tables at § 2D1.1 for an offense involving at least 10,000 kilograms but less than 30,000 kilograms of marihuana. Under Amendment 782, § 2D1.1(c) provides a base offense level of 34 for possession of at least 10,000 but less than 30,000 kilograms of marijuana. § 2D1.1(c)(2); U.S.S.G. App. C, amend. 782. Prior to Amendment 782, when Defendant was sentenced, possession of the same quantities of marihuana had a base offense level of 36.

With a base offense level of 34, and all other guidelines computations staying intact, *see Dillon*, 560 U.S. at 827, Amendment 782 reduces Defendant's total offense level from 44 to 42. A total offense level of 42, when combined with a criminal history category of I, results in a guideline range of 360 months to life. The low-end of the guideline range thus decreased from life imprisonment to 360

months' imprisonment. But this does not end the inquiry into whether Defendant's sentence is "based on a sentencing range that has subsequently been lowered by the Sentencing Commission . . . ." § 3582(c)(2).

1. Count 10

The new guideline range for Count 10 still exceeds the statutory maximum of 300 months (or 25 years). Thus, "the statutorily authorized maximum sentence" of 300 months remains "the guideline sentence," § 5G1.1(a), the same as it was at sentencing. As to Count 10, retroactive application of Amendment 782 would not "have the effect of lowering [Defendant's] applicable guideline," § 1B1.10, comment. (n.1(A)). And, "[w]here a retroactively applicable guideline amendment reduces a defendant's *base offense level*, but does not alter the *sentencing range* upon which his or her sentence was based, § 3582(c)(2) does not authorize a reduction in sentence." *United States v. Moore*, 541 F.3d 1323, 1330 (11th Cir. 2008) (emphasis added); *see also United States v. Williams*, 776 F. App'x 604, 607 (11th Cir. 2019) (holding that the "district court did not err in denying Williams' motion for a sentence reduction" under § 3582(c)(2) because "[a]though Amendment 782 would reduce Williams' total offense level from 41 to 39, the resulting guidelines range of 262–327 months would still exceed the statutory maximum sentence of 240 months."). Defendant is not eligible for a § 3582(c)(2) sentence reduction on Count 10.

2. Counts 2, 3, and 4

The outcome is different for Counts 2, 3, and 4. The low-end of the new guideline range has decreased from life imprisonment to 360 months' imprisonment, and 360 months is less than the statutory maximum penalty of 480 months (or 40 years). Hence, as to these three counts, the guideline range now is 360 months to 480 months. Because retroactive application of Amendment 782 does "have the effect of lowering [Defendant's] applicable guideline," § 1B1.10, comment. (n.1(A)), Defendant is eligible for a sentence reduction on Counts 2, 3, and 4.

B. A sentence reduction on Counts 2, 3, and 4 is warranted.

The applicable § 3553(a) factors must be assessed to determine whether the authorized reduction is warranted. The court has considered the § 3553(a) factors—in particular, the nature and circumstances of the offense and Defendant's history and characteristics, the need for his sentence to reflect the seriousness of the offense, and the need to promote respect for the law and afford adequate deterrence. It also has considered the public's safety and Defendant's post-sentencing conduct, in particular, his prison discipline data. *See Smith*, 568 F.3d at 927.

In light of the applicable § 3553(a) factors, public safety considerations, and Defendant's post-sentencing conduct, the court finds that 360 months is a reasonable and appropriate sentence on each of Counts 2, 3, and 4, and that these sentences

should run consecutively. Accordingly, the total sentence on Counts 2, 3, and 4 is 1,080 months.

III. CONCLUSION

Based on the foregoing, it is ORDERED that Defendant's *pro se* motion for reduction of sentence under 18 U.S.C. § 3582(c)(2) and Amendment 782 (Doc. # 191) is GRANTED as to Counts 2, 3, and 4, and DENIED as to Count 10. Defendant's previously imposed sentence of 145 years is REDUCED to 115 years. This term consists of 360 months on each of Counts 2, 3, and 4, and 300 months on Count 10, all to be served consecutively to each other. All other provisions of the Judgment (Doc. # 145) remain in full force and effect.

It is further ORDERED that Defendant's motion for a status report on his § 3582(c)(2) motion (Doc. # 194) is DENIED as moot.

DONE this 3rd day of June, 2021.

/s/ W. Keith Watkins
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

UNITED STATES OF AMERICA	)	
	)	
v.	)	CASE NO. 2:03-CR-43-WKW
	)	[WO]
JERRY JOSEPH HIGDON, JR.	)	

ORDER

It is ORDERED that Defendant's *pro se* motion to compel (Doc. # 193), motion for status report on his motion to exonerate (Doc. # 194), and motion for leave to supplement (Doc. # 196), all of which pertain to a frivolous argument that jurisdiction is lacking, are DENIED. (*See* Doc. # 190 (Order denying Defendant's Motion to Exonerate Due to Lack of Jurisdiction).)

DONE this 3rd day of June, 2021.

/s/ W. Keith Watkins
UNITED STATES DISTRICT JUDGE