



## I.

On June 25, 2012, Conley was sentenced to a 262-month prison term, based on his guilty plea pursuant to a written plea agreement to conspiracy to possess with intent to distribute 500 grams or more of methamphetamine in violation of 21 U.S.C. §§ 846 & 841(b)(1)(A). This offense carried a statutory mandatory minimum term of 20 years. § 841(b)(1)(A). Based on the drug quantity, Conley's base offense level under U.S.S.G. § 2D1.1 was 34. Conley was also determined to be a career offender due to prior felony drug convictions, and his base career offender level under U.S.S.G. § 4B1.1 was 37. Conley received a three-level adjustment for acceptance of responsibility, lowering his total offense level to 34. Based on a total offense level of 34 and a criminal history category of VI, the guideline imprisonment range was 262 to 360 months.

On April 30, 2014, the U.S. Sentencing Commission adopted an amendment to the sentencing guidelines that would revise the guidelines applicable to drug trafficking offenses, effective November 1, 2014. The drug amendment, designated Amendment 782, generally reduces by two levels the offense levels assigned to the drug quantities described in U.S.S.G. § 2D1.1.

Conley contends that his drug offense level under U.S.S.G. § 2D1.1 was higher than his career offender level under § 4B1.1, meaning that he was sentenced under the drug guidelines rather than the career offender guidelines. Conley claims

that his career offender guideline was equivalent to the statutory mandatory minimum sentence of 20 years, or 240 months, and that his higher sentence of 262 months was based on drug quantity. Therefore, Conley argues that his sentence was based on the § 2D1.1 drug offense guideline, and he is eligible for a sentence reduction under Amendment 782.

Conley's argument misapprehends the basis for his sentence. Although the statutory minimum sentence for his drug offense was 240 months, his guideline range, calculated based upon his total offense level of 34 and criminal history category of VI, was 262 months to 327 months. Conley's § 2D1.1 drug offense level was 34, and his adjusted offense level with acceptance of responsibility would have been 31. However, Conley's § 4B1.1 career offender base offense level was 37, and his adjusted offense level was 34. Since the § 4B1.1 career offense level after the adjustment (34) was greater than the § 2D1.1 drug offense level after the adjustment (31), the § 4B1.1 offense level was used to determine Conley's sentencing range. *See* U.S.S.G. § 4B1.1(b) (providing that career offense level will apply if greater than otherwise-applicable offense level).

Conley points to *United States v. Jones*, 596 F.3d 273 (5th Cir. 2010), in support of his argument, but that case presents the opposite situation. The defendant's adjusted drug offense level in that case was greater than his career offense level, thus entitling him to a sentence reduction under U.S.S.G.

Amendment 706. *Id.* at 276. In this case, Conley's adjusted career offender level was higher than his adjusted drug offender level, and he was therefore sentenced under the career offender level. Accordingly, Conley is not eligible for a sentence reduction under Amendment 782.

II.

For these reasons, it is **ORDERED** that the Motion for Reconsideration (ECF No. 263) is DENIED.

ENTER: March 19, 2015

/s/ James P. Jones  
United States District Judge