

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ABINGDON DIVISION**

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| UNITED STATES OF AMERICA |) | |
| |) | |
| |) | Case No. 1:07CR00002 |
| |) | |
| v. |) | OPINION AND ORDER |
| |) | |
| ENEDINA JANE GODINEZ, |) | By: James P. Jones |
| |) | United States District Judge |
| Defendant. |) | |

Enedina Jane Godinez, Pro Se Defendant.

The defendant, proceeding pro se, has filed a motion entitled “Motion for Reconsideration of Sentence.” On August 25, 2008, the defendant was sentenced by this court to a term of 180 months of imprisonment for offenses relating to the sexual exploitation of a minor. The defendant requests that this court reduce her sentence based upon her post-sentencing rehabilitation. She cites a number of cases purportedly in support of her motion.

Contrary to the defendant’s argument, the Supreme Court has said that when an inmate is being *resentenced* after already serving a period of incarceration, the court can consider past post-sentencing rehabilitation efforts in fixing a new sentence, and that such evidence may, in appropriate cases, support a downward variance from the Sentencing Guidelines range. *Pepper v. United States*, 562 U.S.

476, 507-08 (2011). This is simply not the case here. The defendant is not being resentenced and thus the court has no occasion to consider her rehabilitation.

Moreover, a district court's authority to amend a defendant's sentence is limited by 18 U.S.C. § 3582. Under § 3582, a district court "may not modify a term of imprisonment once it has been imposed" unless the Bureau of Prisons moves for a reduction, the Sentencing Commission amends the applicable guideline range, or Rule 35 of the Federal Rules of Criminal Procedure or another statute expressly permits the court to do so. 18 U.S.C. §§ 3582(c); *see also United States v. Goodwyn*, 596 F.3d 233, 235 (4th Cir. 2010). Because none of these circumstances are present in this case, the court lacks authority to reduce the defendant's sentence.

Accordingly, it is hereby **ORDERED** that the defendant's motion (ECF No. 90) is DENIED.

ENTER: September 6, 2016

/s/ James P. Jones
United States District Judge