

Helton admitted to a quantity of drugs that corresponded to a “drug base-offense level”—for lack of a better way to put it—of 32. *See* Pre-Sentence Report at 8. That level was increased by two levels because Helton possessed a firearm during the drug offense, *see id.* § 2D1.1(b)(1), and was decreased by two levels because Helton had a mitigating role, *see id.* § 2D1.1(a)(5). Thus, Helton’s “drug-offense level”—*i.e.*, the “offense level for the underlying offense from which the laundered funds were derived”—was 32. And pursuant to § 2S1.1(a)(1), that “drug-offense level” became the “base-offense level” for purposes of the money-laundering guidelines.

After calculating Helton’s money-laundering base-offense level at 32, the Court applied a two-level increase because Helton was convicted of money laundering pursuant to 18 U.S.C. § 1956. *See* U.S.S.G. § 2S1.1(b)(2)(B). The Court then applied a two-level reduction because Helton had been a minor participant in the conspiracy, *see id.* § 3B1.2(b), and a three-level reduction because Helton had accepted responsibility, *see id.* § 3E1.1(a). Hence Helton’s total-offense level was 29. The Court combined that total-offense level with a criminal-history category of II and calculated Helton’s guidelines range as 97 to 121 months.

Now that Amendment 782 has taken effect, Helton’s “drug base-offense level” is reduced by two, from 32 to 30. The Court must again increase that by two levels because Helton used a firearm. *See id.* § 2D1.1(b)(1). Unlike during Helton’s first sentencing, however, she is no longer entitled to the minor-role reduction pursuant to § 2D1.1(a)(5). That section provides for certain reductions in offense levels for defendants who have mitigating roles in drug crimes. Specifically, if a defendant’s base-offense level is 32, then the mitigating-role adjustment decreases her total-offense level by two. If her base-offense

level is 34 or 36, then the mitigating-role adjustment decreases her total-offense level by three. And if her base-offense level is 38, then the mitigating-role adjustment decreases her total-offense level by four. *See* U.S.S.G. § 2D1.1(a)(5). The section does not provide for *any* reduction, however, if the base-offense level is less than 32. Since Helton’s “drug base-offense level” is now 30, she is no longer entitled to a § 2D1.1(a)(5) reduction. Thus, her “drug-offense level” is still 32, *i.e.*, a base-offense level of 30 plus a two-level increase because she used a gun.

The Court again uses that “drug-offense level” as the “base-offense level” for the money-laundering guidelines. Helton again receives a two-level increase because she was convicted of money laundering, *see* U.S.S.G. § 2S1.1(b)(2)(B), again receives a two-level reduction because she was a minor participant, *see id.* § 3B1.2(b), and again receives a three-level reduction because she accepted responsibility, *see id.* § 3E1.1(a). Her total-offense level is therefore still 29. The Court combines that total-offense level with a criminal-history category of II and Helton’s guidelines range remains 97 to 121 months.

So to summarize: what changed? During her previous sentencing, Helton received *two* “mitigating role” reductions: one under § 2D1.1(a)(5) and one under § 3B1.2(b). In essence, she was allowed to “double dip” and thereby receive credit twice for her mitigating role. Now, though, because Amendment 782 reduced her “drug base-offense level” by two levels, she is entitled only to a “single dip,” that is, she gets the § 3B1.2 reduction but not the § 2D1.1 reduction. Thus, the two-level reduction under Amendment 782 is “cancelled out” by the fact that Helton is no longer eligible for the two-level § 2D1.1 reduction. And that means Helton’s total-offense level remains the same before and after Amendment 782 took effect. For that same reason, her guidelines range also remains the same.

In the end, Helton's current sentence (78 months) is less than the low end of her amended-guidelines range (97 months), which—in this case—just so happens to be the same as the low end of her previous guidelines range (also 97 months). Helton is therefore not entitled to a two-level reduction pursuant to Amendment 782. *See, e.g., United States v. Hogan*, 722 F.3d 55, 62 (1st Cir. 2013).

Accordingly, Helton's motion for clarification, R. 1480, is **GRANTED**. The Court understands that sometimes the guidelines are conceptually hard to follow. This is one of those times. Hopefully, this clears up why Ms. Helton's guideline range did not change.

This the 1st day of December, 2015.



Signed By:

Amul R. Thapar AT

United States District Judge