

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 18-3031

September Term, 2018

1:03-cr-00516-RJL-1

Filed On: February 19, 2019

United States of America,

Appellee

v.

James Odell Baxter, II,

Appellant

Washington Teachers' Union,
Intervenor

BEFORE: Henderson, Srinivasan, and Millett, Circuit Judges

ORDER

Upon consideration of the motions for summary affirmance, the opposition thereto, the replies, and the supplement to the government's reply, it is

ORDERED that the motions for summary affirmance be granted. The merits of the parties' positions are so clear as to warrant summary action. See Taxpayers Watchdog, Inc. v. Stanley, 819 F.2d 294, 297 (D.C. Cir. 1987) (per curiam). The Washington Teachers' Union was specifically authorized by statute to move for an adjustment of appellant's restitution schedule. See 18 U.S.C. § 3664(k) (permitting "any party, including the victim," to move the court to adjust a restitution payment schedule). Assuming without deciding that a de novo standard of review applies, the district court did not err in concluding that appellant's receipt of \$40,000 as part of a settlement agreement constituted a material change in his economic circumstances that justified requiring appellant to pay \$36,000 toward his outstanding restitution obligations. See United States v. Simpson-El, 856 F.3d 1295, 1296 (10th Cir. 2017).

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The Clerk is directed to publish this order and to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

Per Curiam