

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

September 9, 2021

FOR THE TENTH CIRCUIT

Christopher M. Wolpert
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MAURICE WILLIAMS,

Defendant - Appellant.

No. 21-3082
(D.C. No. 2:08-CR-20137-JWL-1)
(D. Kan.)

ORDER AND JUDGMENT*

Before **HOLMES, KELLY, and McHUGH**, Circuit Judges.**

Defendant-Appellant Maurice Williams, a federal inmate appearing pro se, seeks an appeal from the district court’s denial of his motion for a sentence reduction under § 404 of the First Step Act of 2018. See Pub. L. No. 115-391, § 404, 132 Stat. 5194, 5222 (2018). Exercising jurisdiction under 28 U.S.C. § 1291, we affirm.

* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

** After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist in the determination of this appeal. See Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument.

Background

In July 2008, Mr. Williams sold 6.7 grams of crack cocaine to an undercover police officer working at a store in Kansas City, Kansas. 1 R. 25. The following month, Mr. Williams entered that same store and sold a rifle to an undercover officer. Id. In January 2009, Mr. Williams pled guilty to distributing five grams or more of crack cocaine within 1,000 feet of a school in violation of 21 U.S.C. § 841(a) and possession of a firearm by a prohibited person in violation of 18 U.S.C. § 922(g). Id. at 24. In April 2009, the district court sentenced Mr. Williams to 84 months imprisonment followed by eight years of supervised release. Id. at 31–32.

Mr. Williams subsequently filed a motion for a sentence reduction under § 404 of the First Step Act of 2018. Id. at 72. Mr. Williams argued that he is eligible for a sentence reduction under § 404(b) of the First Step Act, which allows district courts to “impose reduced sentences as if Sections 2 and 3 of the Fair Sentencing Act of 2010 were in effect at the time the covered offense was committed.” See § 404(b), 132 Stat. at 5222 (citation omitted). The government conceded that Mr. Williams is eligible for consideration of a reduced sentence under the First Step Act since Mr. Williams was sentenced before August 3, 2010, and “his sentencing exposure would indeed be different today.” 1 R. 84–85. However, the government requested that the court deny Mr. Williams’s motion based on several violations of his supervised release. Id. at 87–88.

The district court denied Mr. Williams’s motion. The district court reasoned that relief under the First Step Act is discretionary and a reduction in sentence is not

warranted based on Mr. Williams’s continual violations of his supervised release. Id. at 100.

Discussion

We review a district court’s decision to deny a sentence reduction for an abuse of discretion. United States v. Piper, 839 F.3d 1261, 1265 (10th Cir. 2016). Mr. Williams argues that the district court failed to perform a holistic review of the facts and circumstances surrounding his motion for a sentence reduction. Aplt. Br. at 3. Specifically, Mr. Williams cites alleged sentencing disparities between himself and similarly situated defendants in addition to pending federal legislation as the circumstances that the district court overlooked. Id.

The district court did not abuse its discretion in denying Mr. Williams’s motion for a sentence reduction as it presented a reasonably articulated basis for its conclusion. See United States v. Mannie, 971 F.3d 1145, 1158 (10th Cir. 2020). Section 404 of the First Step Act is clear: “Nothing in this section shall be construed to require a court to reduce any sentence pursuant to this section.” § 404(c), 132 Stat. at 5222. Therefore, any reduction in sentence under the First Step Act is completely discretionary. See United States v. Brown, 974 F.3d 1137, 1143–44 (10th Cir. 2020). In properly exercising its discretion, the district court relied on Mr. Williams’s numerous, serious violations of his release conditions. 1. R. 100. In relying on Mr. Williams’s violation report, the district court provided a reasonably

articulated basis for its determination that a sentence reduction is not warranted in this case.

AFFIRMED. We GRANT the motion to proceed IFP on appeal.

Entered for the Court

Paul J. Kelly, Jr.
Circuit Judge