

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 20-13953
Non-Argument Calendar

D.C. Docket No. 1:09-cr-20672-DPG-1

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

EDDIE LEE HUDSON,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Florida

(July 9, 2021)

Before WILSON, BRANCH, and GRANT, Circuit Judges.

PER CURIAM:

Eddie Hudson appeals the district court's denial of his motion to reduce his sentence under § 404 of the First Step Act of 2018, arguing that the district court erred in finding that he was not entitled to a sentence reduction because his conviction under 21 U.S.C. § 841(b)(1)(C) was not a "covered offense."

The First Step Act made retroactive the statutory penalties for a "covered offense" under the Fair Sentencing Act of 2010. *See* First Step Act § 404 ("A court that imposed a sentence for a covered offense may . . . impose a reduced sentence as if sections 2 and 3 of the Fair Sentencing Act of 2010 were in effect at the time the covered offense was committed." (citation omitted)). The First Step Act defines a "covered offense" as "a violation of a Federal criminal statute, the statutory penalties for which were modified by section 2 or 3 of the Fair Sentencing Act of 2010, that was committed before August 3, 2010." *Id.* § 404(a) (citation omitted). The question here is whether a defendant, like Hudson, who was sentenced for a crack-cocaine offense under § 841(b)(1)(C), has a "covered offense" that would render him eligible for a sentence reduction under the First Step Act.

In a recent decision, the Supreme Court held that the Fair Sentencing Act did nothing to modify the statutory penalty for § 841(b)(1)(C). *Terry v. United States*, 141 S. Ct. 1858 (2021). Under the Supreme Court's holding in *Terry*, Hudson's

conviction under § 841(b)(1)(C) is not a covered offense. Therefore, the district court did not err in finding him ineligible for a sentence reduction.

AFFIRMED.