

United States Court of Appeals for the Fifth Circuit

No. 22-30796
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

December 11, 2023

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

JEROME JACKSON,

Defendant—Appellant.

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 6:20-CR-48-7

Before KING, HAYNES, and GRAVES, *Circuit Judges.*

PER CURIAM:*

Jerome Jackson pleaded guilty to conspiracy to distribute and possess with the intent to distribute heroin. He now argues that he should not have been sentenced as a career offender and that his guidelines range calculation should have included a mitigating role reduction pursuant to U.S.S.G. § 3B1.2.

* This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

No. 22-30796

First, Jackson correctly concedes that our recent en banc decision in *United States v. Vargas*, 74 F.4th 673, 680-90 (5th Cir. 2023) (en banc), *petition for cert. filed* (U.S. Oct. 23, 2023) (No. 23-5875), forecloses his argument that his conspiracy conviction was not a controlled substance offense for purpose of the career offender enhancement. Second, based on the record evidence of the content of Jackson's recorded conversations with the leader of the conspiracy, the district court did not clearly err in concluding that he was not entitled to a § 3B1.2 mitigating role reduction. *See United States v. Bello-Sanchez*, 872 F.3d 260, 263-65 (5th Cir. 2017); *United States v. Castro*, 843 F.3d 608, 613-14 (5th Cir. 2016).

AFFIRMED.