

United States Court of Appeals for the Fifth Circuit

No. 24-30283
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

February 20, 2025

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

MARK MORAD,

Defendant—Appellant.

Appeal from the United States District Court
for the Eastern District of Louisiana
USDC No. 2:13-CR-101-1

Before JOLLY, GRAVES, and OLDHAM, *Circuit Judges*.

PER CURIAM:*

Mark Morad, federal prisoner # 32962-034, appeals the district court's denial of his motion pursuant to 18 U.S.C. § 3582(c)(2), which is based on Amendment 821 to the Sentencing Guidelines. The motion requested a reduction of Morad's aggregate 180-month sentence of

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

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imprisonment for conspiracy to commit health care fraud and conspiracy to falsify records in a federal investigation.

The district court denied the § 3582(c)(2) motion after determining that Morad was not eligible for a decrease of two offense levels as a zero-point offender pursuant to Amendment 821 because he did not satisfy all the criteria under U.S.S.G. § 4C1.1(a). Specifically, the district court noted that Morad received an offense level adjustment under U.S.S.G. § 3B1.1 for an aggravating role.

On appeal, Morad contends that he qualifies for a sentence reduction under Amendment 821 because he has zero criminal history points and that he was not engaged in a continuing criminal enterprise. “[T]o be eligible for the zero-point-offender reduction, a defendant must show *both* that he did not receive an enhancement under § 3B1.1 *and* that he was not engaged in a continuing criminal enterprise.” *United States v. Morales*, 122 F.4th 590, 597 (5th Cir. 2024). In other words, “[i]f a defendant . . . received a § 3B1.1 enhancement . . . , he is disqualified from receiving the reduction.” *Id.* Morad received an enhancement under U.S.S.G. § 3B1.1. Thus, Morad was not eligible for the two-point decrease in his offense level. *Id.* The district court did not err in denying the § 3582(c)(2) motion.

Accordingly, the judgment of the district court is, in all respects,

AFFIRMED.