

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

August 4, 2021

Lyle W. Cayce
Clerk

No. 20-10838
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

JOE LEWIS FINLEY,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 1:03-CR-18-1

Before SMITH, STEWART, and GRAVES, *Circuit Judges.*

PER CURIAM:*

Joe Lewis Finley, federal prisoner # 30231-177, appeals the district court's denial of his motion for a reduction in sentence under Section 404 of the First Step Act of 2018 (First Step Act). The district court concluded that Finley was eligible for a reduction but exercised its discretion and denied the

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

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motion “after considering the 18 U.S.C. § 3553(a) sentencing factors, including [his] criminal history, public safety issues, offense conduct or relevant conduct, and the post-sentencing conduct.”

Finley argues that the district court committed a procedural error by failing to adequately explain its reasons for denying him the sentence reduction available to him under the First Step Act. He asserts that the district court’s brief explanation did not provide a record to which we could apply meaningful appellate review. However, as Finley concedes, his claim is foreclosed by our caselaw. *See United States v. Batiste*, 980 F.3d 466, 479 (5th Cir. 2020).

The Government has filed an unopposed motion for summary affirmance and, in the alternative, requests an extension of time to file its brief. Because Finley concedes that the issue asserted on appeal is foreclosed, summary affirmance is proper. *See Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969).

Thus, the Government’s motion for summary affirmance is GRANTED, the Government’s alternative motion for an extension of time to file a brief is DENIED, and the judgment of the district court is AFFIRMED.