

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

April 5, 2021

Lyle W. Cayce
Clerk

No. 20-30136
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff—Appellant,

versus

JAMIE SMITH,

Defendant—Appellee.

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 5:01-CR-50070-2

Before JONES, BARKSDALE, and STEWART, *Circuit Judges.*

PER CURIAM:*

In 2002, a jury convicted Jamie Smith of conspiring to possess, with intent to distribute, five kilograms or more of powder cocaine, 50 grams or more of crack cocaine, and marijuana, in violation of 21 U.S.C. § 846. He

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

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was sentenced to, *inter alia*, a within-Sentencing Guidelines term of 360-months' imprisonment.

Smith moved in 2018 to reduce his sentence pursuant to the First Step Act, Pub. L. No. 115-391, § 404, 132 Stat. 5194, 5222 (2018). The district court granted Smith's request, concluding Smith was eligible for relief under the First Step Act and ordering his sentence be reduced to 300-months' imprisonment.

The Government contends Smith's conviction was not a "covered offense" under the First Step Act because it included both crack cocaine and powder cocaine, and the drug-quantity thresholds for powder cocaine were not modified by the 2010 Fair Sentencing Act. We generally review for abuse of discretion the decision to reduce a sentence pursuant to the First Step Act; questions of law, such as the court's determination turning on the meaning of a federal statute, are reviewed *de novo*. *United States v. Jackson*, 945 F.3d 315, 319 (5th Cir. 2019), *cert. denied*, 140 S. Ct. 2699 (2020).

Our court recently held dual-object conspiracies, *i.e.* drug conspiracies involving both powder and crack cocaine, qualify as covered offenses under the First Step Act because the "statutory penalties for the crack-cocaine object were modified by Section 2 of the Fair Sentencing Act". *United States v. Winters*, 986 F.3d 942, 950 (5th Cir. 2021); *see* Fair Sentencing Act of 2010, Pub. L. 111-220, § 2(a), 124 Stat. 2372, 2372 (2010). Smith's conspiracy offense was committed before August 3, 2010, and is, therefore, a covered offense under the First Step Act.

AFFIRMED.