

UNPUBLISHED

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 19-6760

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

OTIS RENALDO HARRIS, a/k/a O,

Defendant - Appellant.

Appeal from the United States District Court for the District of Maryland, at Greenbelt.
Deborah K. Chasanow, Senior District Judge. (8:08-cr-00319-DKC-6)

Submitted: September 26, 2019

Decided: October 1, 2019

Before NIEMEYER and KEENAN, Circuit Judges, and HAMILTON, Senior Circuit
Judge.

Affirmed by unpublished per curiam opinion.

Otis Renaldo Harris, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Otis Renaldo Harris appeals the district court's order denying his motion for relief pursuant to the First Step Act of 2018, Pub. L. No. 115-391, 132 Stat. 5194. We have reviewed the record and find no reversible error. Accordingly, we affirm for the reasons stated by the district court. *United States v. Harris*, No. 8:08-cr-00319-DKC-6 (D. Md. May 10, 2019). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

UNITED STATES OF AMERICA

v.

OTIS HARRIS

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Criminal Case No. DKC 08-0319-6

ORDER

Defendant Otis Harris pleaded guilty to conspiracy to distribute and possession with intent to distribute five kilograms or more of cocaine on July 14, 2009. ECF No. 161. He was sentenced to 280 months imprisonment on November 23, 2009. ECF No. 190.

Mr. Harris filed a letter-motion requesting a sentence reduction pursuant to the First Step Act of 2018 on January 10, 2019. ECF No. 319. The Government filed a response in opposition on March 29, 2019. ECF No. 325. Defendant filed a reply on April 15, 2019. ECF No. 326.

The First Step Act of 2018 provides the court with discretion to “impose a reduced sentence as if sections 2 and 3 of the Fair Sentencing Act of 2010 (Public Law 111-220; 124 Stat. 2372) were in effect at the time the covered offense was committed.” Pub. L. No. 115-391, § 404, 132 Stat. 5194. The Fair Sentencing Act of 2010 reduced the disparity in cocaine base and powder cocaine offenses by increasing the quantity of cocaine base necessary to trigger the mandatory minimum sentences while leaving the necessary quantities for powder cocaine mandatory minimums the same. Pub. L. No. 111-220, § 2, 124 Stat 2372.

Defendant argues that, because the parties stipulated in his plea agreement that his conduct involved “five kilograms or more of cocaine hydrochloride (“cocaine”) and 50 grams or more of cocaine base, commonly known as crack,” he is eligible for a sentence reduction under § 404 of

the First Step Act. ECF No. 319. Defendant is correct that the stipulated facts involved a quantity of cocaine base. However, the only charge to which he pleaded guilty does not and the amount of cocaine base did not affect the guideline determination. See Plea Agreement, ECF No. 161. Because Defendant's conviction for conspiracy to distribute and possession with intent to distribute five kilograms or more of cocaine is not implicated by the Fair Sentencing Act's changes, Defendant is not eligible for a reduction in his sentence under the First Step Act. Accordingly, it is this 10th day of May, 2019 by the United States District Court for the District of Maryland,

ORDERED, that Defendant's motion to reduce sentence under the First Step Act of 2018 [ECF No. 319] is hereby **DENIED**; and it is further

ORDERED, that the Clerk is directed to mail a copy of this Order to Defendant and transmit same to counsel of record.

/s/
DEBORAH K. CHASANOW
United States District Judge

