

United States Court of Appeals
for the Fifth Circuit

No. 20-10693
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

January 11, 2021

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

MICHAEL LAWRENCE WILLIAMS,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 5:06-CR-30-1

Before WIENER, SOUTHWICK, and DUNCAN, *Circuit Judges.*

PER CURIAM:*

Michael Lawrence Williams appeals the district court's denial of his motion for a reduction in sentence under Section 404 of the First Step Act of 2018. The district court concluded that Williams was eligible for a reduction but exercised its discretion and denied the motion.

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

No. 20-10693

Williams asserts that the district court committed a procedural error by failing to explain adequately its decision to deny his motion. He contends that the district court's brief explanation in a form order did not address his arguments for a reduction in sentence or provide a record to which we could apply meaningful appellate review. However, as Williams acknowledges, his claim is foreclosed by our caselaw. *See United States v. Batiste*, 980 F.3d 466, 479 (5th Cir. 2020).

Further, Williams argues that the denial of his motion resulted in the imposition of a substantively unreasonable sentence. He maintains that his continued incarceration is longer than necessary to comply with the relevant sentencing objectives and does not account for the need to avoid unwarranted sentencing disparities among similarly situated defendants. The substantive reasonableness standard does not apply to motions under Section 404 of the First Step Act. *See id.* at 479-80. Therefore, as Williams acknowledges, his claim is foreclosed. *See id.* at 479-80.

The Government has filed an unopposed motion for summary affirmance and, alternatively, requests an extension of time to file its brief. Because Williams concedes that the issues asserted on appeal are 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 as moot, and the judgment of the district court is AFFIRMED.

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

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January 11, 2021

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW

Regarding: Fifth Circuit Statement on Petitions for Rehearing
or Rehearing En Banc

No. 20-10693 USA v. Williams
USDC No. 5:06-CR-30-1

Enclosed is a copy of the court's decision. The court has entered judgment under Fed. R. App. P. 36. (However, the opinion may yet contain typographical or printing errors which are subject to correction.)

Fed. R. App. P. 39 through 41, and 5th Cir. R. 35, 39, and 41 govern costs, rehearings, and mandates. **5th Cir. R. 35 and 40 require you to attach to your petition for panel rehearing or rehearing en banc an unmarked copy of the court's opinion or order.** Please read carefully the Internal Operating Procedures (IOP's) following Fed. R. App. P. 40 and 5th Cir. R. 35 for a discussion of when a rehearing may be appropriate, the legal standards applied and sanctions which may be imposed if you make a nonmeritorious petition for rehearing en banc.

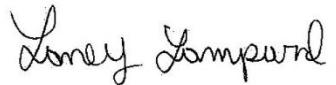
Direct Criminal Appeals. 5th Cir. R. 41 provides that a motion for a stay of mandate under Fed. R. App. P. 41 will not be granted simply upon request. The petition must set forth good cause for a stay or clearly demonstrate that a substantial question will be presented to the Supreme Court. Otherwise, this court may deny the motion and issue the mandate immediately.

Pro Se Cases. If you were unsuccessful in the district court and/or on appeal, and are considering filing a petition for certiorari in the United States Supreme Court, you do not need to file a motion for stay of mandate under Fed. R. App. P. 41. The issuance of the mandate does not affect the time, or your right, to file with the Supreme Court.

Court Appointed Counsel. Court appointed counsel is responsible for filing petition(s) for rehearing(s) (panel and/or en banc) and writ(s) of certiorari to the U.S. Supreme Court, unless relieved of your obligation by court order. If it is your intention to file a motion to withdraw as counsel, you should notify your client promptly, **and advise them of the time limits for filing for rehearing and certiorari.** Additionally, you MUST confirm that this information was given to your client, within the body of your motion to withdraw as counsel.

Sincerely,

LYLE W. CAYCE, Clerk



By: Laney L. Lampard, Deputy Clerk

Enclosure(s)

Mr. Adam Nicholson
Ms. Leigha Amy Simonton