

Appendix

FILED

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

JAN 29 2021

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

JONATHAN JEROME HILLS, AKA
Jerome Johnathan Hill, AKA Jerome
Johnson Hill, AKA Janathan J. Hills, AKA
Jerome Hills, AKA Jerome J. Hills, AKA
Jerome Johnathan Hills, AKA Jerome
Jonathan Hills, AKA Jerome Jonthan Hills,
AKA Johanathon Jerome Hills, AKA
Johnatham J. Hills, AKA Johnathan Jerome
Hills, AKA Johnathon Jerome Hills, AKA
Jonatham Jerome Hills, AKA Jonathan
Hills, AKA Jonathon Jerome Hills, AKA
Jonthan Jerome Hills, AKA Romeo Hills,
AKA Robert Ricks, AKA Rome, AKA
Romeo,

Defendant-Appellant.

No. 19-50354

D.C. No. 2:05-cr-01040-JFW-1

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
John F. Walter, District Judge, Presiding

Submitted January 20, 2021**

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision

Before: McKEOWN, CALLAHAN, and BRESS, Circuit Judges.

Jonathan Jerome Hills appeals from the district court's order denying his motion for a reduction of sentence under the First Step Act. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Hills first contends that the district court procedurally erred by failing to address his arguments for a lower sentence under the 18 U.S.C. § 3553(a) sentencing factors and by misapplying one of the factors. We disagree. The court considered Hills's arguments, including his argument regarding his post-conviction conduct, and acknowledged Hills's eligibility for a reduction, but concluded that the § 3553(a) factors did not warrant a further reduction from the original below-Guidelines sentence. This explanation is sufficient to permit appellate review.¹

See Chavez-Meza v. United States, 138 S. Ct. 1959, 1965 (2018). Moreover, even assuming the district court adopted the government's argument regarding sentencing disparities, we see no error in concluding that a reduction would result in an unfair disparity with other defendants sentenced under the career offender guidelines who were not subject to a reduced mandatory minimum.

Hills also contends the 240-month sentence is substantively unreasonable in

without oral argument. *See* Fed. R. App. P. 34(a)(2).

¹ The government does not dispute Hills's assertion that the district court has an obligation to explain its reasons under § 3553(a) for denying a motion under the First Step Act. We, therefore, do not reach that question here.

light of the staleness of his prior convictions and his post-sentencing conduct and rehabilitation. However, the district court had discretion to determine the appropriate weight to give to the various sentencing factors under § 3553(a), *see United States v. Gutierrez-Sanchez*, 587 F.3d 904, 908 (9th Cir. 2009), and it was within its discretion in concluding that further reduction of the below-Guidelines sentence was unwarranted in light of the Guidelines range and Hills's extensive criminal history, *United States v. Kelley*, 962 F.3d 470, 479 (9th Cir. 2020).

AFFIRMED.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CRIMINAL MINUTES

Case No. **CR 05-1040-JFW**

Dated: November 13, 2019

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PRESENT: HONORABLE JOHN F. WALTER, UNITED STATES DISTRICT JUDGE

Shannon Reilly
Courtroom Deputy

None Present
Court Reporter

Sara B. Milstein
Asst. U.S. Attorney
Not Present

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U.S.A. vs (Dfts listed below)

Attorneys for Defendants

1) Jonathan Jerome Hills
Not Present

1) Carel Ale
Not Present

PROCEEDINGS (IN CHAMBERS):

**ORDER DENYING DEFENDANT'S MOTION FOR
REDUCTION OF SENTENCE UNDER THE FIRST STEP
AND FAIR SENTENCING ACTS
[filed 10/7/2019; Docket No. 125]**

On October 7, 2019, Defendant Jonathan Jerome Hills ("Defendant") filed a Motion for Reduction of Sentence Under the First Step and Fair Sentencing Acts ("Motion"). On October 9, 2019, the Government filed its Opposition. The Court finds that this matter is appropriate for decision without oral argument. The hearing calendared for November 25, 2019 is hereby vacated and the matter taken off calendar. After carefully considering the moving and opposing papers, the arguments therein, and the entire record in this case, the Court rules as follows:

For the reasons stated in the Government's Opposition, Defendant's Motion is **DENIED**. Although Defendant is eligible for relief under the First Step Act and his statutory mandatory minimum term of imprisonment has been reduced to ten years, Defendant's guidelines range remains 262-327 months' imprisonment. The Court previously determined that the guidelines range of 262 to 327 months was greater than necessary to satisfy the purposes of sentencing under 18 U.S.C. § 3553(a)(2). As a result, the Court granted a variance and imposed a sentence of 240 months. After considering all of the sentencing factors in 18 U.S.C. § 3553(a) and Defendant's post-conviction conduct, the Court finds that a further variance is not warranted.

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CRIMINAL MINUTES

Case No. **CR 05-1040-JFW**

Dated: December 3, 2019

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PRESENT: HONORABLE JOHN F. WALTER, UNITED STATES DISTRICT JUDGE

Shannon Reilly
Courtroom Deputy

None Present
Court Reporter

Sara B. Milstein
Asst. U.S. Attorney
Not Present

=====

U.S.A. vs (Dfts listed below)

Attorneys for Defendants

1) Jonathan Jerome Hills
Not Present

1) Carel Ale
Not Present

PROCEEDINGS (IN CHAMBERS):

**ORDER DENYING DEFENDANT'S MOTION FOR
INDICATIVE RULING PURSUANT TO FRCP 62.1
REGARDING DENIAL OF DEFENDANT'S MOTION
FOR REDUCTION OF SENTENCE UNDER THE FIRST
STEP AND FAIR SENTENCING ACTS
[filed 11/27/2019; Docket No. 137]**

On November 27, 2019, Defendant Jonathan Jerome Hills (“Defendant”) filed a Motion for Indicative Ruling Pursuant to FRCP 62.1 Regarding Denial of Defendant’s Motion for Reduction of Sentence Under the First Step and Fair Sentencing Acts (“Motion”). On December 2, 2019, the Government filed its Opposition. The Court finds that this matter is appropriate for decision without oral argument. After considering the moving and opposing papers and the arguments therein, the Court rules as follows:

For the reasons stated in the Government’s Opposition, Defendant’s Motion is **DENIED**.

Initials of Deputy Clerk sr