

No. \_\_\_\_\_

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IN THE  
SUPREME COURT OF THE UNITED STATES

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JOHNNIE SIMS,  
*Petitioner,*  
v.

UNITED STATES OF AMERICA,  
*Respondent.*

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On Petition for Writ of Certiorari  
to the United States Court of Appeals for the Fifth Circuit

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APPENDIX

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United States Court of Appeals  
for the Fifth Circuit

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No. 20-30294  
Summary Calendar

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United States Court of Appeals  
Fifth Circuit

**FILED**

April 7, 2021

Lyle W. Cayce  
Clerk

UNITED STATES OF AMERICA,

*Plaintiff—Appellee,*

*versus*

JOHNNIE SIMS,

*Defendant—Appellant.*

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Appeal from the United States District Court  
for the Eastern District of Louisiana  
USDC No. 2:05-CR-297-3

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Before HAYNES, WILLETT, and Ho, *Circuit Judges.*

PER CURIAM:\*

Johnnie Sims has appealed the district court's order denying his motion for a sentence reduction pursuant to Section 404 of the First Step Act of 2018. He asserts that the district court misapplied this court's decision in *United States v. Hegwood*, 934 F.3d 414 (5th Cir.), *cert. denied*, 140 S. Ct. 285

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\* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.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. 20-30294

(2019), failed to properly consider all of the statutory sentencing factors, and failed to conduct an individualized assessment of his unique circumstances. Sims fails to demonstrate an abuse of discretion. *See United States v. Batiste*, 980 F.3d 466, 477-79 (5th Cir. 2020). Sims also asserts that the district court's decision was substantively unreasonable. As he now concedes, this question is foreclosed. *See id.* at 479-80. The district court's order is AFFIRMED.

# United States Court of Appeals for the Fifth Circuit

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No. 20-30294

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UNITED STATES OF AMERICA,

*Plaintiff—Appellee,*

*versus*

JOHNNIE SIMS,

*Defendant—Appellant.*

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Appeal from the United States District Court  
for the Eastern District of Louisiana  
USDC No. 2:05-CR-297-3

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## ON PETITION FOR REHEARING EN BANC

(Opinion April 7, 2021, 5 Cir., 2021, 978 F. App’x 947)

Before HAYNES, WILLETT, and Ho, *Circuit Judges.*

PER CURIAM:

Treating the Petition for Rehearing En Banc as a Petition for Panel Rehearing, the Petition for Panel Rehearing is DENIED. No member of the panel nor judge in regular active service of the court having requested that the court be polled on Rehearing En Banc (FED. R. APP. P. and 5TH CIR. R. 35), the Petition for Rehearing En Banc is DENIED.