

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

JOE LEWIS FINLEY,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

APPENDIX

/s/ Adam Nicholson

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INDEX TO APPENDICES

Appendix A *United States v. Joe Lewis Finley*, 855 F.App'x 212 (5th Cir. Aug. 4, 2021), CA No. 20-10838, Court of Appeals for the Fifth Circuit.
Judgment affirmed on August 4, 2021.

Appendix B *United States v. Joe Lewis Finley*, 1:03-CR-18-C, United States District Court for the Northern District of Texas. Order denying relief under the First Step Act, entered July 6, 2020.

APPENDIX A

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

August 4, 2021

No. 20-10838
Summary Calendar

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

JOE LEWIS FINLEY,

Defendant—Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 1:03-CR-18-1

Before SMITH, STEWART, and GRAVES, *Circuit Judges.*

PER CURIAM:*

Joe Lewis Finley, federal prisoner # 30231-177, appeals the district court's denial of his motion for a reduction in sentence under Section 404 of the First Step Act of 2018 (First Step Act). The district court concluded that Finley was eligible for a reduction but exercised its discretion and denied the

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.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. 20-10838

motion “after considering the 18 U.S.C. § 3553(a) sentencing factors, including [his] criminal history, public safety issues, offense conduct or relevant conduct, and the post-sentencing conduct.”

Finley argues that the district court committed a procedural error by failing to adequately explain its reasons for denying him the sentence reduction available to him under the First Step Act. He asserts that the district court’s brief explanation did not provide a record to which we could apply meaningful appellate review. However, as Finley concedes, his claim is foreclosed by our caselaw. *See United States v. Batiste*, 980 F.3d 466, 479 (5th Cir. 2020).

The Government has filed an unopposed motion for summary affirmance and, in the alternative, requests an extension of time to file its brief. Because Finley concedes that the issue asserted on appeal is 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, and the judgment of the district court is AFFIRMED.

APPENDIX B

UNITED STATES DISTRICT COURT
for the

Northern District of Texas—Abilene Division

United States of America

v.

Joe Lewis Finley

Date of Original Judgment:

8/15/2003

Date of Previous Amended Judgment
or Last Order Reducing Sentence:

)	Case No: 1:03-CR-018-C-01
)	USM No: 30231-177
)	
)	
	Defendant's Attorney

ORDER REGARDING MOTION FOR SENTENCE REDUCTION
PURSUANT TO 18 U.S.C. § 3582(c)(2)Upon motion of the defendant the Director of the Bureau of Prisons the court under 18 U.S.C.

§ 3582(c)(2) for a reduction in the term of imprisonment imposed based on Section 404 of the First Step Act, and having considered such motion, and taking into account the policy statement set forth at USSG §1B1.10 and the sentencing factors set forth in 18 U.S.C. § 3553(a), to the extent that they are applicable,

IT IS ORDERED that the motion is:

DENIED. GRANTED and the defendant's previously imposed sentence of imprisonment (as reflected in the last judgment issued) of _____ months is reduced to _____.

(See Page 2 for additional parts. Complete Parts I and II of Page 2 when motion is granted)

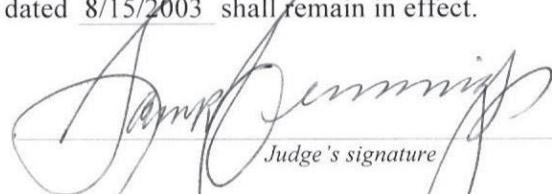
ADDITIONAL COMMENTS:

The Court finds that Defendant is eligible for a sentence reduction under the First Step Act. However, after considering the 18 U.S.C. § 3553(a) sentencing factors, including defendant's criminal history, public safety issues, offense conduct or relevant conduct, and the post-sentencing conduct, the Court declines to reduce defendant's current term of imprisonment.

Except as otherwise provided, all provisions of the judgment dated 8/15/2003 shall remain in effect.

IT IS SO ORDERED.

Order Date: July 6, 2020

Effective Date: July 6, 2020
(If different from order date)

 Judge's signature
 SAM R. CUMMINGS, Senior U.S. District Judge
 Printed name and title