
APPENDIX A
[Judgment and Opinion of the United States Court of Appeals]

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 22-2200

UNITED STATES OF AMERICA

v.

RICHARD POTTS, a/k/a NASIR HAQQ, a/k/a NASIR JONES,
a/k/a NASIR, a/k/a NAZ,
Appellant

On Appeal from the United States District Court
for the Eastern District of Pennsylvania
(D.C. Criminal Action No. 2-01-cr-00457-003)
District Judge: Honorable Mitchell S. Goldberg

Submitted Pursuant to Third Circuit LAR 34.1(a)
March 6, 2023

Before: KRAUSE, SCIRICA, and AMBRO, Circuit Judges

JUDGMENT

This cause came to be considered on the record from the United States District Court for the Eastern District of Pennsylvania and was submitted pursuant to Third Circuit LAR 34.1(a) on March 6, 2023. On consideration whereof, it is now hereby

ORDERED and ADJUDGED by this Court that the judgment of the District Court entered June 28, 2022, be and the same is hereby affirmed. Costs will not be taxed. All of the above in accordance with the opinion of this Court.

Dated: March 16, 2023



ATTEST:

s/ Patricia S. Dodszuweit
Clerk

Certified as a true copy and issued in lieu
of a formal mandate on 06/09/2023

Teste: *Patricia S. Dodszuweit*
Clerk, U.S. Court of Appeals for the Third Circuit

NOT PRECEDENTIAL

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FOR THE THIRD CIRCUIT

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Before: KRAUSE, SCIRICA, and AMBRO, Circuit Judges

(Opinion filed: March 16, 2023)

OPINION*

PER CURIAM

* This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not constitute binding precedent.

Richard Potts appeals the District Court's order denying his motion for a sentence reduction filed pursuant to Section 404 of the First Step Act of 2018. For the reasons that follow, we will affirm the District Court's order.

Potts is serving two concurrent life sentences imposed in 2003 after he was convicted of conspiracy to distribute more than 50 grams of cocaine base in violation of 21 U.S.C. 841(b)(1)(A) and murder while engaging in a qualifying drug trafficking crime. See 21 U.S.C. § 848(e)(1)(A) (describing penalties for committing murder while engaging in an offense punishable under § 841(b)(1)(A)). In 2019, he filed a motion for a reduction in his sentence. The District Court denied the motion, and Potts filed a pro se appeal. After we remanded the matter, see C.A. No. 19-3158, the District Court appointed counsel who filed a supplemental motion. The District Court denied the motion as supplemented, and Potts filed a notice of appeal.¹ We have jurisdiction pursuant to 28 U.S.C. § 1291.

Section 404 of the First Step Act allows defendants sentenced before the Fair Sentencing Act of 2010 to seek reduced sentences based on the Fair Sentencing Act. United States v. Birt, 966 F.3d 257, 260 (3d Cir. 2020). The Fair Sentencing Act reduced the sentencing disparities between crack cocaine offenses and powder cocaine offenses by increasing the amounts of crack cocaine needed to trigger mandatory minimums. Id. at 259-60. Potts argues that the District Court should have reduced both his life sentence for murder as well as his life sentence for the conspiracy to distribute cocaine base.

¹ On appeal, Potts requested that we order counsel to withdraw and then appoint new counsel. We discharged counsel but declined to appoint new counsel for Potts.

We turn first to his sentence for murder. The District Court concluded that Potts's conviction for murder was not a covered offense under the First Step Act. Thus, it determined, he was not eligible to have his sentence for that count reduced. We exercise plenary review over a district court's statutory interpretation regarding Section 404 eligibility. See United States v. Jackson, 964 F.3d 197, 201 (3d Cir. 2020).

A conviction qualifies as a covered offense if its statutory penalties were modified by section 2 or 3 of the Fair Sentencing Act. Id. at 201-02. Here, the statutory penalty for a violation of § 848(e)(1)(A) was not modified by the Fair Sentencing Act. Although the conviction for murder while engaged in drug trafficking rested on a violation of § 841(b)(1)(A), the penalties for which were modified by the Fair Sentencing Act, the statutory penalty for a violation of § 848(e)(1)(A) was, and remains, a sentence between twenty years and life in prison or the death penalty. The District Court did not err in determining that the murder conviction was not a covered offense, and Potts is not eligible for a sentence reduction for that conviction. See United States v. Roane, 51 F.4th 541, 546 (4th Cir. 2022) (holding that conviction for violating § 848(e)(1)(A) is not a covered offense because statutory penalties were not modified); United States v. Fletcher, 997 F.3d 95, 99 (2d Cir. 2021) (same); United States v. Snow, 967 F.3d 563, 565 (6th Cir. 2020) (same).

As for the drug trafficking conviction, the Government agreed that Potts's conviction for conspiracy to distribute cocaine base was a covered offense and he is eligible for a sentence reduction. That a defendant is eligible for a sentence reduction, however, does not mean he is entitled to one. While the First Step Act allows a district

court to reduce a sentence, a district court is not required to do so. Jackson, 964 F.3d at 201. We review a district court's denial of relief to an eligible defendant for an abuse of discretion. Id.

On appeal, Potts complains that the District Court did not specifically discuss the sentencing factors of 18 U.S.C. § 3553(a). The District Court, however, explicitly acknowledged the relevant § 3553 factors. Potts does not point to any argument he made in the District Court that went unaddressed. In his counseled and pro se filings in the District Court, he submitted evidence of his educational achievements and spiritual growth and argued that he had rehabilitated himself.

In denying relief, the District Court mentioned Potts's efforts to rehabilitate himself and, in fact, commended Potts for those efforts. However, it also noted the seriousness of his crime: he was senior member of a drug distribution network which was responsible for distributing over 250 kilograms of crack and he murdered another drug dealer. See Jackson, 964 F.3d at 204 (noting that in exercising its discretion, the District Court may consider the actual quantity of drugs possessed by a defendant). A district court need only show that it considered the arguments set forth by the parties. See Concepcion v. United States, 142 S. Ct. 2389, 2405 (2022). The District Court did not abuse its discretion in denying Potts's motion for a sentence reduction.

Potts, who did not seek recusal in the District Court, suggests that the District Judge should have recused himself pursuant to 28 U.S.C. § 455 because he was an AUSA with the United States Attorney's Office in the Eastern District of Pennsylvania during

the time when that office was prosecuting Potts. He also points to the District Court's denial of his motion as evidence of his bias.

Under § 455, a judge should disqualify himself if, inter alia, his impartiality might reasonably be questioned, he has a personal bias concerning a party, or, as a governmental employee, he participated as counsel or an advisor concerning the proceeding. The District Judge's former employment as an AUSA did not require recusal where Potts did not allege that the judge was ever personally involved in his prosecution. See United States v. Di Pasquale, 864 F.2d 271, 279 (3d Cir. 1988) (“[A]bsent a specific showing that that judge was previously involved with a case while in the U.S. Attorney's office that he or she is later assigned to preside over as a judge, § 455(b)(3) does not mandate recusal.”). And Potts's displeasure with the District Judge's rulings is not an adequate basis for recusal. See Liteky v. United States, 510 U.S. 540, 555 (1994) (“[O]pinions formed by the judge on the basis of facts introduced or events occurring in the course of the current proceedings, or of prior proceedings, do not constitute a basis for a bias or partiality motion unless they display a deep-seated favoritism or antagonism that would make fair judgment impossible.”); The District Judge's ruling does not show any disqualifying bias, and he did not err by failing to recuse himself sua sponte.

Potts also argues that counsel was ineffective in presenting his argument that the murder conviction was a covered offense. However, we have considered and rejected Potts's own arguments about whether he was eligible for a reduction of sentence on his murder conviction. Thus, even if a claim of ineffective assistance of counsel were a basis to vacate the District Court's decision, he was not prejudiced by any alleged failures of

counsel. Potts also challenges the evidence presented against him at trial. However, a motion for a sentence reduction is not the appropriate vehicle to attack his convictions. See United States v. Amato, 48 F.4th 61, 65 (2d Cir. 2022) (concluding that a defendant may not challenge the validity of his conviction via a § 3582 motion).

For the above reasons, as well as those set forth by the District Court, we will affirm the District Court's judgment.

APPENDIX B
[En Banc decision of Court of Appeals]

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 22-2200

UNITED STATES OF AMERICA

v.

RICHARD POTTS,
a/k/a NASIR HAQQ,
a/k/a NASIR JONES,
a/k/a NASIR,
a/k/a NAZ,
Appellant

(2:01-cr-00457-003)

SUR PETITION FOR REHEARING

Present: CHAGARES, Chief Judge, JORDAN, HARDIMAN, GREENAWAY, JR.,
KRAUSE, RESTREPO,
BIBAS, PORTER, MATEY, PHIPPS, FREEMAN, MONTGOMERY-REEVES,
CHUNG, *SCIRICA, and *AMBRO, Circuit Judges

The petition for rehearing filed by Appellant Richard Potts in the above-entitled case having been submitted to the judges who participated in the decision of this Court

*Judge Scirica's and Judge Ambro's votes are limited to panel rehearing only.

and to all the other available circuit judges of the circuit in regular active service, and no judge who concurred in the decision having asked for rehearing, and a majority of the judges of the circuit in regular service not having voted for rehearing, the petition for rehearing by the panel and the Court en banc, is denied.

BY THE COURT,

s/ Cheryl Ann Krause
Circuit Judge

Dated: June 1, 2023
JK/cc: Richard Potts
All Counsel of Record

APPENDIX C
[Order and Memorandum of the United States District Court]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES,

v.

RICHARD POTTS

CRIMINAL ACTION

No. 01-457-3

ORDER

AND NOW, this 27th day of June, 2022, upon consideration of Defendant's Motion for a Hearing and Reduction in Sentence (ECF No. 939), and the Government's response thereto (ECF No. 943), and for the reasons set forth in the accompanying Memorandum, it is hereby **ORDERED** that the motion is **DENIED**.

BY THE COURT:

S/ MITCHELL S. GOLDBERG
MITCHELL S. GOLDBERG, J.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES,

v.

RICHARD POTTS

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CRIMINAL ACTION

No. 01-457-3

Goldberg, J.

June 27, 2022

SEALED
MEMORANDUM OPINION

Before me is a motion to reduce Richard Potts's ("Defendant" or "Potts") sentence pursuant to Section 404 of the First Step Act of 2018, which retroactively applied modified penalties for crack cocaine offenses.

Potts was a member of a drug distribution ring that operated out of North Philadelphia from 1992 through 2001. In connection with this conduct, Potts was charged with various offenses involving conspiracy to distribute crack cocaine and murder in furtherance of a continuing criminal enterprise. Potts moves for a reduction in his sentence because his crack offenses were imposed under a statutory section that was modified by the Fair Sentencing Act. For the foregoing reasons, I will deny the motion.

I. FACTUAL AND PROCEDURAL BACKGROUND

As a member of the "Do or Die" drug distribution ring, Potts was responsible for long term distribution of over 400 kilograms of crack in the Philadelphia area. In addition to drug distribution, various members of the conspiracy, including Potts, carried out acts of violence which included several homicides.

Potts proceeded to a jury trial, and the jury found him guilty of one count of conspiracy to distribute more than 50 grams of cocaine base (crack) in violation of 21 U.S.C. § 846, and one

count of murder in furtherance of a CCE (“CCE murder”) in violation of 21 U.S.C. § 848(e)(1)(A) (PSR ¶ 3.) The Probation Office found that Potts was responsible for the distribution of more than 250 kilograms of crack, and that he was subject to a four-level enhancement for his role in the offense, and a two level-enhancement for distributing crack within a school zone. (*Id.* ¶ 91.) Potts’s total offense level was 48, and his criminal history was category I, resulting in a guideline range of life imprisonment. (*Id.* ¶ 111.) Potts was subject to a ten-year mandatory minimum on the drug conspiracy count, and a twenty-year mandatory minimum on the CCE murder count.

On July 16, 2003, the Honorable James T. Giles, who was originally assigned to this matter, sentenced Potts to life imprisonment on each count.¹ Potts filed several post-conviction motions for relief, which were all denied. Potts then filed a *pro se* motion for a reduction in sentence on January 14, 2019. (ECF No. 810). That motion was denied by the Honorable Jan E. DuBois on July 29, 2019. (ECF No. 827). Potts appealed and submitted an uncontested motion for summary remand to the United States Court of Appeals for the Third Circuit, which was granted. (ECF No. 897). Potts then filed a counseled supplemental motion for a reduction in sentence. (ECF No. 939). This case was reassigned to my docket in February of 2021.

II. APPLICABLE STATUTES AND PRECEDENT

Once a sentence of imprisonment has been imposed, that sentence is final and may only be modified under limited circumstances. *In re Morris*, 345 Fed. Appx. 796, 797 (3d Cir. 2009). One of those circumstances exists when the sentencing range for a particular offense has been lowered by the Sentencing Commission. 18 U.S.C. § 3582(c)(2).

¹ Potts appealed his conviction, arguing there was insufficient evidence to support it. The Third Circuit affirmed his conviction but vacated the sentence and remanded for resentencing in accordance with *United States v. Booker*, 543 U.S. 220 (2005). Judge Giles resentedenced Potts on October 20, 2005, applying the same guideline range and again imposing a lifetime sentence of imprisonment on each count. Potts then appealed his sentence, which was affirmed by the Third Circuit. See *United States v. Potts*, 251 F. Appx. 109, 111-12 (3d Cir. 2007).

In 2010, Congress enacted the Fair Sentencing Act, which reduced the sentencing disparities between offenses for crack and powder cocaine from 100:1 to 18:1. Pub. L. No. 111-220, 124 Stat. 2372. Prior to the Act's passage, the five and ten-year mandatory minimum sentences for crack offenses under § 841(a)(1) and (b)(1)(A) were triggered by offenses involving 5 and 50 grams, respectively. *Id.* Since the Act's passage, the mandatory minimums are now triggered by 28 and 280 grams. *Id.*

In 2018, Congress passed the First Step Act, which retroactively applied the modified penalties set forth in the Fair Sentencing Act to defendants sentenced before August 3, 2010. First Step Act of 2018, 115 Pub. L. No. 391, § 404, 132 Stat. 5194, 5222. The First Step Act states that “a court that imposed a sentence for a covered offense may . . . impose a reduced sentence as if sections 2 and 3 of the Fair Sentencing Act of 2010 . . . were in effect at the time the covered offense was committed.” 115 Pub. L. No. 391, § 404. The First Step Act defines “covered offense” as “a violation of a Federal criminal statute, the statutory penalties for which were modified by section 2 or 3 of the Fair Sentencing Act.” *Id.* A sentence may not be reduced if either: (1) it has already been reduced; or (2) a previous motion to reduce the sentence was denied after a complete review on the merits. *Id.* Ultimately, the decision to impose a reduced sentence is discretionary.² *Id.*

When the modified penalties for crack offenses became retroactive under the First Step Act, a question arose as to who those modified penalties would apply to. In United States v.

² When deciding a motion for a reduced sentence under the First Step Act, the district court must include in its analysis “an accurate calculation of the amended guidelines range at the time of resentencing,” as well as “a thorough renewed consideration of the [18 U.S.C.] § 3553(a) factors.” United States v. Easter, 975 F.3d 318, 325–26 (3d Cir. 2020). However, defendants are not entitled to a plenary resentencing hearing. *Id.* at 326. The district court must “simply acknowledge it has considered the § 3553(a) factors ‘to the extent that they are applicable[.]’” and give “meaningful consideration” to “the particular circumstances of the case” within the parameters of § 3553(a). *Id.* (quoting United States v. Tomko, 562 F.3d 558, 567 (3d Cir. 2009)).

Jackson, the United States Court of Appeals for the Third Circuit considered whether eligibility for retroactive relief under the First Step Act was determined by the statute of conviction, or by the actual quantity of crack involved in the offense. 964 F.3d 197 (3d Cir. 2020). In Jackson, the Government argued that eligibility for relief should be determined by the actual quantity of crack involved in the offense, advocating for an adoption of a “conduct-based approach.” Id. at 202.

• Under that approach, an offender convicted of possessing “five grams or more” of crack pursuant to § 841(b)(1)(A), but who actually possessed a drug quantity above the modified twenty-eight-gram threshold (for example, thirty grams), would not be eligible for First Step Act consideration. Defendants, on the other hand, argued that eligibility should turn on the statute of conviction, regardless of the actual drug quantity. Id. The Third Circuit ultimately found that eligibility under the First Step Act should be determined by the statute of conviction. Id. The court noted, however, that “we expect that a district court, in exercising its discretion, will [also] consider the actual quantity of drugs a defendant possessed.” Id. at 204. Accordingly, a defendant may seek a reduction in their sentence under the First Step Act if they were sentenced for violating a “covered offense” under the Act, even if the actual quantity of drugs they were charged with exceeds the modified penalties under the statute.

Here, the parties do not dispute that Potts’s drug offense under § 841(b)(1)(A) is a “covered offense,” as the subsection’s statutory penalties have been modified by the Fair Sentencing Act. Potts also maintains that his CCE offense under § 848 is a covered offense as well. The Government disagrees and asserts that the penalties for the CCE murder offense were not modified by the Fair Sentencing Act, and therefore it is not a “covered offense” eligible for resentencing. The Government additionally argues that I should decline relief on the drug offense as a matter of discretion in light of the nature of the crime and the actual amount of crack involved in the offense.

III. DISCUSSION

Potts seeks a reduction of his entire sentence, arguing that each of his offenses are covered under the First Step Act. The Government responds that the statutory penalties for Potts's CCE murder offense were not explicitly modified by the Fair Sentencing Act, and thus he is not eligible for resentencing on that count. And while the government concedes that I may consider a sentence reduction for the drug offense under § 841(b)(1)(A), relief should not be granted on that offense as a matter of discretion in light of the actual quantity of drugs involved and upon consideration of the § 3553(a) factors. See Jackson, 964 F.3d at 204. The Government additionally asserts that because the CCE offense is not covered, any reduction in Potts's sentence on the drug offense would be pointless.

A. Whether the CCE Murder Charge is a "Covered Offense"

As detailed above, in addition to the drug distribution offense, Potts was sentenced for murder in furtherance of a CCE under § 848(e)(1)(A). Potts contends this CCE offense is eligible for resentencing because it incorporates by reference violations of § 841(b)(1)(A).

Section 848(e)(1)(A) under which Potts was convicted for CCE murder reads:

(e) Death penalty

(1) In addition to the other penalties set forth in this section--

(A) any person engaging in or working in furtherance of a continuing criminal enterprise, or any person engaging in an offense punishable under section 841(b)(1)(A) of this title or section 960(b)(1) of this title who intentionally kills or counsels, commands, induces, procures, or causes the intentional killing of an individual and such killing results, shall be sentenced to any term of imprisonment, which shall not be less than 20 years, and which may be up to life imprisonment, or may be sentenced to death;

Potts maintains that his CCE murder offense was thus modified by the Fair Sentencing Act because the statute references § 841(b)(1)(A). He argues that "because the underlying crime that

constituted the continuing criminal enterprise . . . for purposes of the murder charge. . . was the drug conspiracy under 21 U.S.C. § 846 for which the penalties have subsequently been reduced pursuant to the Fair [Sentencing] Act and its retroactive application of the First Step Act, Mr. Potts is eligible for resentencing and reduction of his sentence on that count as well.” (Def. Br. at p. 6, ECF No. 939). Potts went on to explain that “[t]he CCE was the conspiratorial drug organization, and a murder in furtherance of a CCE could not occur without the CCE, which was established through the conspiracy charge in Count 1.” *Id.* In support, Potts cites a case from the Northern District of Illinois in which the court reduced a defendant’s sentence who was convicted for engaging in a CCE under § 848. United States v. Moore, No. 95-cr-509-2, 2020 WL 4748154 (N.D. Ill. Aug. 17, 2020). It is worth highlighting that this case did not involve murder, as was the case here.

The Government responds that Potts’s CCE murder conviction is not a covered offense under the First Step Act because the Fair Sentencing Act did not modify the penalties of § 848. As Potts would still be subject to the same twenty-year mandatory minimum and maximum sentence of life on this count if he were sentenced today, the Government maintains that the CCE murder offense is not eligible for resentencing.

For several reasons, I find that CCE murder under § 848(e) is not a covered offense under the First Step Act. First, it is clear that Congress did not explicitly modify the statutory penalties for CCE murder in violation of § 848(e). That aside, I am not persuaded by Potts’s argument that because § 848(e) references a covered offense, that makes it eligible under the First Step Act as well. The reasoning in United States v. Snow, 967 F.3d 563 (6th Cir. 2020) illustrates why Potts’s position is flawed. In Snow, the defendant was charged with conspiracy to commit CCE murder in violation of § 848(e)(1)(A), among other charges, and was sentenced to life in prison. *Id.* at

563. The defendant filed a motion for a reduction in sentence under the First Step Act, arguing that his CCE murder charge was a covered offense. Id. at 563–64.

The Snow court acknowledged that a conviction for CCE murder under § 848(e)(1)(A) required that someone be engaged in an offense punishable under § 841(b)(1)(A), and thus the CCE murder charge “partly incorporated the elements” of the latter covered offense. Id. at 564. However, the court explained that the First Step Act defines a covered offense as “one for which the statutory penalties were ‘modified’ by the Fair Sentencing Act.” Id. at 565. The court emphasized that the word “modify” means to make a small or moderate change, and not a great change. Id. The court went on to reason that if one followed the defendant’s argument to its logical end, applying the Fair Sentencing Act to his CCE murder conviction would not result in a modification of his sentence, it would completely eliminate it. Id. This is because since the statutory threshold for his covered crack offense was modified from 50 to 280 grams, his sentence for “murder while engaging in a conspiracy to distribute at least 50 grams of crack” would not be *reduced* under the Fair Sentencing Act’s modified penalties, it would be *eliminated* all together because his conduct would no longer amount to a violation. Id. Therefore, the court reasoned that if the defendant were to be resentenced for the CCE murder offense, there would be no applicable statutory sentencing range to guide the court and he could receive no incarceration at all, which would hardly be a “modification” of his original life sentence for conspiracy to commit murder. Id.

Lastly, when Congress reduced the sentencing disparities for low-level crack cocaine dealers through the Fair Sentencing Act, it did not also intend to amend the statutory penalties for violent crimes associated with crack cocaine offenses. In fact, when Congress passed the Fair Sentencing Act, it instructed the United States Sentencing Commission to *increase* a defendant’s

offense level if they used violence during a drug trafficking offense. See Fair Sentencing Act, § 5, 124 Stat. at 2373. Congress also instructed that the offense level be increased if the defendant played a supervisory role in the drug trafficking operation, among a list of other aggravating factors. Id. § 6, 124 Stat. at 2373–74. This legislative history reflects Congress’s intent not to extend the sentencing reductions for low level crack offenses to violent crimes committed in furtherance of crack offenses. See United States v. Roane, No. 92-cr-68 (DJN), 2020 WL 6370984, at *8 (E.D. Va. Oct. 29, 2020) (“§ 848 proves conspicuously absent from Sections 2 and 3 of the Fair Sentencing Act. And for good reason: as § 848 targets dangerous drug kingpins while the Fair Sentencing Act seeks to address the sentencing disparity between low-level crack dealers and large-scale powder cocaine distributors.”).

For the foregoing reasons, I find that Potts’s CCE murder offense is not a covered offense under the First Step Act.

B. Discretionary Reduction on Drug Offense

Even assuming that I had authority to resentence Potts on his CCE murder offense, the decision to resentence him for his covered drug offense remains discretionary. When exercising such discretion, courts may consider the factors delineated in 18 U.S.C. § 3553(a), “post-sentencing developments” such as rehabilitative efforts made while in prison, and the amended guidelines range at the time of resentencing. Easter, 975 F.3d at 326–27. The factors to be considered under § 3553(a) include: (1) the nature and circumstances of the offense; and (2) the need for the sentenced imposed to reflect the seriousness of the offense, promote respect for the law, provide just punishment, afford adequate deterrence, protect the public, and provide the defendant with correctional treatment. § 3553(a)(1) and (2). I may also consider the actual quantity of drugs involved in the offense under Jackson. 964 F.3d at 204. ✓

Potts maintains that after more than nineteen years of incarceration, he has become a different person. He has participated in numerous education courses offered by the Bureau of Prisons and founded a youth mentorship program that focuses on young people at risk for criminal activity and incarceration. He has also found spirituality and served as an Orderly to the Chaplain at USP Atwater. He has also submitted character letters written by the Chaplain at USP Atwater, several staff members of the Bureau of Prisons, his brother, his son, his ex-wife, and a friend in which they detail Pott's positive attributes and growth he has experienced since he committed his crimes. I commend Potts for the efforts he has made to rehabilitate himself.

However, the nature and circumstances of the offense and the need for the sentence imposed to reflect the seriousness of the crime require me to decline relief as a matter of discretion. Potts was a senior member of a large-scale drug distribution ring and was found to be personally responsible for the distribution of over 250 kilograms of crack over the course of ten years. In furtherance of this large-scale drug operation, Potts murdered a rival drug dealer. Regardless of the amended statutory penalties that apply to some of his sentences, Potts's guideline range remains life imprisonment. The sheer quantity of drugs and resulting violence and destruction involved in this case is immense and requires a sentence that reflects the seriousness of that conduct. For these reasons, I decline to exercise my discretion to reduce Potts's sentence on his drug offense. I additionally find that no hearing is necessary. See United States v. Murphy, 998 F.3d 549, 552 (3d Cir. 2021) (defendant not entitled to a plenary resentencing hearing at which he would be present).

IV. CONCLUSION

For the reasons outlined above, Potts's motion for a reduction in sentence and a hearing will be denied.

An appropriate order follows.