

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

No: 23-3629

United States of America

Plaintiff - Appellee

v.

Robert George Jefferson, also known as Buster, also known as Taz-Loc

Defendant - Appellant

Appeal from U.S. District Court for the District of Minnesota.
(0:97-cr-00276-MJD-2)

JUDGMENT

Before LOKEN, GRUENDER, and KELLY, Circuit Judges.

This court has reviewed the original file of the United States District Court. It is ordered by the court that the judgment of the district court is summarily affirmed. See Eighth Circuit Rule 47A(a).

December 05, 2023

Order Entered at the Direction of the Court:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Michael E. Gans

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

United States of America,

Plaintiff,
v.

Robert George Jefferson,

Defendant.

ORDER
Crim. No. 97-276(02) (MJD)

Lisa D. Kirkpatrick, Assistant United States Attorney, Counsel for Plaintiff.
Robert George Jefferson, Defendant, pro se.

This matter is before the Court on Defendant's Pro Se Motion to Reduce Sentence Under the First Step Act, which the Court interprets as a Second Motion Under § 404 of the First Step Act to Reduce Sentence.

The motion will be denied because § 404(c) bars a second motion.

Moreover, contrary to Defendant's arguments, the Court did not abuse its discretion when it denied his first motion. (See Docs. 1817, 1821, 1822, 1829.)

The Eighth Circuit has approved the Court's approach in a ruling on an appeal by Defendant's co-defendant. See United States v. Robert James Jefferson, 60 F.4th 433, 435-37 (8th Cir. 2023).

Accordingly, based upon the files, records, and proceedings herein, **IT IS**
HEREBY ORDERED that Defendant's Pro Se Motion to Reduce Sentence Under
the First Step Act [Doc. 1867] is **DENIED**.

Date: October 11, 2023

s/Michael J. Davis

Michael J. Davis
United States District Court

**UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT**

No. 23-3629

United States of America

Appellee

v.

Robert George Jefferson, also known as Buster, also known as Taz-Loc

Appellant

Appeal from U.S. District Court for the District of Minnesota
(0:97-cr-00276-MJD-2)

ORDER

The petition for rehearing en banc is denied. The petition for rehearing by the panel is also denied.

January 09, 2024

Order Entered at the Direction of the Court:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Michael E. Gans

United States of America, Plaintiff, v. Robert George Jefferson, Defendant.
UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MINNESOTA
2021 U.S. Dist. LEXIS 99679
Crim. No. 97-276 (2) (MJD)
May 26, 2021, Decided
May 26, 2021, Filed

Editorial Information: Subsequent History

Reconsideration denied by United States v. Jefferson, 2021 U.S. Dist. LEXIS 147301, 2021 WL 3472650 (D. Minn., Aug. 5, 2021)

Editorial Information: Prior History

United States v. Jefferson, 215 F.3d 820, 2000 U.S. App. LEXIS 13003 (8th Cir. Minn., June 12, 2000)

Counsel {2021 U.S. Dist. LEXIS 1}Jeffrey S. Paulsen, Assistant United States Attorneys, Counsel for Plaintiff.

Defendant, Pro se.

Judges: Michael J. Davis, United States District Judge.

Opinion

Opinion by: Michael J. Davis

Opinion

MEMORANDUM OPINION AND ORDER

This matter is before the Court on Defendant's Motion for Sentence Reduction pursuant to 18 U.S.C. § 3582(c) and Section 404 of the First Step Act. [Doc. No. 1817]

I. Background

On August 5, 1998, a jury found Defendant guilty on 25 counts set forth in the Third Superseding Indictment, the most serious of which included engaging in a Continuing Criminal Enterprise ("CCE"), Conspiracy to Possess and Distribute Crack Cocaine and the Murders of Londwea Brown and the five young Coppage children.

At sentencing, the Court determined the applicable guideline range to be life in prison, based on a total offense level 43 and criminal history category V. He was sentenced to a term of life imprisonment on the CCE, conspiracy and murder counts. On appeal, the Eighth Circuit held that because Defendant was convicted on both the CCE and the conspiracy counts, the conspiracy count must be vacated on double jeopardy grounds. United States v. Jefferson, 215 F.3d 820, 823 (8th Cir. 2000). His convictions and sentences on the remaining counts were affirmed. Id.

II. Motion to Reduce Sentence

Pursuant to Section 404 of the First{2021 U.S. Dist. LEXIS 2} Step Act "[a] court that imposed a sentence for a covered offense may, on motion of the defendant, the Director of the Bureau of

2021) (finding the defendant not entitled to relief under Section 608 of the First Step Act "because he conflates the legal term 'juvenile' with the word 'youth' in Section 608, which relates to mentorship programs{2021 U.S. Dist. LEXIS 5} in Bureau of Prisons facilities. He has not demonstrated that the First Step Act altered the legal definition of 'juvenile' and thus expungement of his record pursuant to Section 608 is unwarranted.").

The government further points out that every circuit to consider the issue has held that the protections in Miller v. Alabama do not apply to a defendant who is 18 years or older at the time of the offense. See United States v. Sierra, 933 F.3d 95, 97 (2d Cir. 2019) (finding the Supreme Court has drawn the constitutional line at the age of 18 for mandatory minimum life sentences); United States v. Dock, 541 F. App'x 242, 245 (4th Cir. 2013) (because defendant was 20 years old at the time of the offense, he was not entitled to protections in Miller v. Alabama); United States v. Chavez, 894 F.3d 593, 609 (4th Cir. 2018) (refusing to apply Miller v. Alabama in case where defendants were 18 and 19 years old); In re Frank, 690 F. App'x 146 (5th Cir. 2017) (even though defendant was a juvenile at the time some of the murders for which he was convicted took place, defendant not entitled to relief under Miller v. Alabama because he was an adult at the time other murders for which he was convicted took place); United States v. Marshall, 736 F.3d 492, 498-500 (6th Cir. 2013) (finding the protections of Miller v. Alabama do not apply to a defendant that is 18 years or older); Melton v. Florida Dep't of Corr., 778 F.3d 1234, 1237 (11th Cir. 2015) (same).

Accordingly, the Court finds that Defendant is not entitled to relief under Miller v. Alabama.

B. Concurrent{2021 U.S. Dist. LEXIS 6} Sentencing Doctrine

"The concurrent sentence doctrine allows courts to decline to review the validity of a concurrent conviction or sentence when a ruling in the defendant's favor 'would not reduce the time he is required to serve' or otherwise 'prejudice him in any way.'" Eason v. United States, 912 F.3d 1122, 1123 (8th Cir. 2019) (citation omitted). Also, the Eighth Circuit has repeatedly affirmed a district court's reliance on the concurrent sentence doctrine. In United States v. Oslund, the defendant was sentenced to a life sentence for murder and a separate life sentence for being a felon in possession of a firearm, as well as a concurrent twenty-year sentence on a robbery conviction. 944 F.3d 743, 745 (8th Cir. 2019). The defendant brought a challenge to his felon in possession conviction and sentence after the Supreme Court's decision in Johnson v. United States, 576 U.S. 591, 135 S. Ct. 2551, 192 L. Ed. 2d 569 (2015). Even though the district court had determined that it relied on the residual clause to apply the ACCA enhancement, the district court applied the concurrent sentencing doctrine and declined to review the validity of the sentence on the felon in possession conviction. Id. at 745-46. On appeal, the Eighth Circuit rejected defendant's claim that he was entitled to a full resentencing because had the district court known the statutory maximum for{2021 U.S. Dist. LEXIS 7} the felon in possession conviction was ten years, he would have received a lesser sentence on the murder conviction. Id. at 746. "The record belies [defendant's] argument, however, for the sentencing court clearly expressed its intent that [defendant] never be released from prison." Id. The Eighth Circuit found the district court committed no error in applying the concurrent sentencing doctrine "[i]n light of the life sentence imposed on count 2 and the sentencing court's specific statements that [defendant] remain in prison for life." Id. See also Eason v. United States, 912 F.3d 1122, 1123 (8th Cir. 2019) (affirming district court's application of concurrent sentence doctrine); Smith v. United States, 930 F.3d 978, 980-81 (8th Cir. 2019) (same).

Because Defendant's convictions and sentences on the murder counts are valid, and there is no indication in the record that the Court would have imposed a different sentence on the murder counts, the government argues this Court should exercise its discretion and decline to review Defendant's challenge to his CCE count under the First Step Act.

The Court finds that applying the concurrent sentencing doctrine in this case is warranted. Even if the Court were to sentence Defendant to a lesser sentence on the CCE count under the First Step Act, it would not reduce his life{2021 U.S. Dist. LEXIS 8} sentence on the murder counts - which involved the deaths of five, innocent young children, the youngest of which was 2 years of age and the oldest 11 years of age. See United States v. Parker, 993 F.3d 595, 606 (8th Cir. 2021) (declining to review concurrent life sentence on count 2 because the conviction and life sentence on count 1 was valid and a ruling in defendant's favor on count 2 would not reduce the time served on count 1).

Accordingly, the Court declines to review Defendant's challenge to his sentence on the CCE count.

IT IS HEREBY ORDERED that Defendant's Motion for a Sentence Reduction [Doc. No. 1817] is DENIED.

Date: May 2, 2021

/s/ Michael J. Davis

Michael J. Davis

United States District Court

**Additional material
from this filing is
available in the
Clerk's Office.**