

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 19-7785

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MICHAEL GILBERT, a/k/a Tracy, a/k/a Roy Smith,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Richmond. Robert E. Payne, Senior District Judge. (3:97-cr-00352-REP-2)

Submitted: November 18, 2020

Decided: December 3, 2020

Before AGEE and KEENAN, Circuit Judges, and SHEDD, Senior Circuit Judge.

Vacated and remanded by unpublished per curiam opinion.

Jeremy C. Kamens, Federal Public Defender, Frances H. Pratt, Assistant Federal Public Defender, Robert J. Wagner, Assistant Federal Public Defender, OFFICE OF THE FEDERAL PUBLIC DEFENDER, Alexandria, Virginia, for Appellant. G. Zachary Terwilliger, United States Attorney, Alexandria, Virginia, Richard D. Cooke, Assistant United States Attorney, Stephen W. Miller, Assistant United States Attorneys, OFFICE OF THE UNITED STATES ATTORNEY, Richmond, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Michael Gilbert appeals from the district court's order denying his motion for a reduction in his sentence pursuant to Section 404 of the First Step Act of 2018, Pub. L. No. 115-391, 132 Stat. 5194. On appeal, he contends that the district court abused its discretion by failing to recalculate the Guidelines range prior to denying his motion. When the district court decided Gilbert's motion, it did not have the benefit of our recent decision in *United States v. Chambers*, 956 F.3d 667, 672 (4th Cir. 2020) (holding that the district court must recalculate Guidelines range when considering sentence reduction under First Step Act). Accordingly, we vacate the district court's order and remand for further proceedings in light of *Chambers*. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

VACATED AND REMANDED