

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 19-11657
Non-Argument Calendar

D.C. Docket No. 9:95-cr-08083-DMM-1

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JUSTINO SANTA,
a.k.a. Tino,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Florida

(November 25, 2020)

Before MARTIN, BRANCH, and LUCK, Circuit Judges.

PER CURIAM:

Justino Santa moved to reduce his sentence under section 404 of the First Step Act of 2018, Pub. L. No. 115-391, 132 Stat. 5194, 5222, § 404. The district court denied Santa’s motion because he “was sentenced as an Armed Career Criminal” and, thus, “his offense level under the armed career offender guideline [did] not change.” Mr. Santa has appealed.

When the district court denied Mr. Santa’s motion, it did not have the benefit of our decision in United States v. Jones, 962 F.3d 1290 (11th Cir. 2020). We do, and now that we do, the government has commendably conceded that Mr. Santa is eligible to be considered for a reduced sentence under the First Step Act, and the district court is authorized to consider reducing his sentence under the Act. Having reviewed Jones and the record in this case, we accept the government’s concession, vacate the district court’s order in full, and remand for further proceedings under the First Step Act and Jones. On remand, the district court must provide the parties with the opportunity to respond in writing to the probation office’s memorandum. See United States v. Jules, 595 F.3d 1239, 1245 (11th Cir. 2010).¹

VACATED AND REMANDED.

¹ The court is grateful to attorney Emily J. Tidmore for accepting the appointment to represent Mr. Santa and for representing him so ably.