

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 13-2104

UNITED STATES OF AMERICA

v.

DEREK MERCHANT,
Appellant

On Appeal from the United States District Court
for the Middle District of Pennsylvania
(D.C. Crim. No. 1-07-cr-00419-001)
District Judge: Honorable William W. Caldwell

Submitted under Third Circuit LAR 34.1(a)
October 28, 2013

Before: FISHER, JORDAN and ALDISERT, Circuit Judges.

JUDGMENT ORDER

PER CURIAM

It appearing that Appellant argues that the Fair Sentencing Act of 2010, Pub. L. No. 111-220, 124 Stat. 2372 (2010) (“FSA”), applies fully and retroactively to defendants

who, like him, were sentenced before its effective date; it further appearing that the FSA for cocaine base offenses became effective subsequent to the sentencing of Appellant for distribution and possession with intent to distribute more than 50 grams of cocaine; it further appearing that the mandatory minimum sentence requirements of the FSA do not apply to Appellant, see United States v. Reevey, 631 F.3d 110, 111 (3d Cir. 2010); and it further appearing that the order denying Appellant's Motion to Reduce Sentence under 18 U.S.C. § 3582(c)(2) was not in error; on consideration whereof, it is now hereby ADJUDGED and ORDERED that the judgment of the District Court for the Middle District of Pennsylvania as entered April 3, 2013 at D.C. Crim. No. 1-07-cr-00419-001 be and is hereby AFFIRMED.

Costs shall not be taxed in this matter.

Attest:

/s/ Marcia M. Waldron

Clerk

DATED: October 31, 2013