

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 10-4779

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

GERARD RONALD LOUIS,

Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at Charleston. Solomon Blatt, Jr., Senior District Judge. (2:09-cr-00902-SB-1)

Submitted: June 30, 2011

Decided: July 5, 2011

Before WILKINSON, DUNCAN, and WYNN, Circuit Judges.

Affirmed by unpublished per curiam opinion.

John M. Ervin, III, Darlington, South Carolina, for Appellant.
William N. Nettles, United States Attorney, Matthew J. Modica,
Assistant United States Attorney, Charleston, South Carolina,
for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Gerard Ronald Louis pled guilty to possession with intent to distribute a quantity of marijuana and five grams or more of cocaine base and possession with intent to distribute a quantity of cocaine, in violation of 21 U.S.C. § 841(a)(1) (2006). Because the attributable drug quantity included five grams or more of cocaine base, and Louis had a prior felony drug conviction, the district court sentenced him to the statutory mandatory minimum of 120 months' imprisonment. Finding no error, we affirm.

On appeal, Louis contends that the Fair Sentencing Act of 2010 (FSA), Pub. L. No. 111-220, 124 Stat. 2372 (reducing the sentencing disparity between cocaine and cocaine base), should be applied to him. Although Louis has standing to challenge the sentencing statute, his argument is foreclosed by this court's recent decision in United States v. Bullard, __ F.3d __, 2011 WL 1718894, at *9-*11 (4th Cir. May 6, 2011) (holding that FSA does not apply retroactively). Since Louis was sentenced on July 13, 2010, prior to the enactment of the FSA on August 3, 2010, the FSA does not apply to him, and he is not entitled to resentencing.

Accordingly, we affirm the judgment of the district court. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials

before the court and argument would not aid in the decisional process.

AFFIRMED