

**UNPUBLISHED**

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

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**No. 19-6862**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

BILLY R. MCCULLERS, JR.,

Defendant - Appellant.

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Appeal from the United States District Court for the Eastern District of Virginia, at Newport News. Rebecca Beach Smith, Senior District Judge. (4:07-cr-00049-RBS-JEB-1)

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Submitted: February 24, 2020

Decided: March 4, 2020

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Before NIEMEYER and KING, Circuit Judges, and TRAXLER, Senior Circuit Judge.

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Vacated and remanded by unpublished per curiam opinion.

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Billy R. McCullers, Jr., Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Billy R. McCullers, Jr., appeals the district court’s order denying his motion for a sentence reduction under Section 404 of the First Step Act of 2018, Pub. L. No. 115-391, 132 Stat. 5194. From the district court’s summary order, we cannot discern whether the court believed that a sentence reduction was unwarranted or whether the court determined that McCullers was ineligible for relief. Based on our review of the record, we conclude that McCullers is, in fact, eligible to move for relief. *See United States v. Wirsing*, 943 F.3d 175, 186 (4th Cir. 2019) (“All defendants who are serving sentences for violations of 21 U.S.C. § 841(b)(1)(A)(iii) and (B)(iii) [(2018)], and who are not excluded pursuant to the expressed limitations in Section 404(c) of the First Step Act, are eligible to move for relief under that Act.”).

Accordingly, we vacate the district court’s order and remand for consideration of McCullers’ motion on the merits.\* 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*

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\* We express no view on the merits of McCullers’ motion.