

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 20-7292

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ERIC MARIO BYERS,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Rebecca Beach Smith, Senior District Judge. (2:02-cr-00077-RBS-1)

Submitted: April 26, 2021

Decided: April 29, 2021

Before GREGORY, Chief Judge, and WYNN and DIAZ, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Eric Mario Byers, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Eric Mario Byers appeals the district court's order granting his motion to reduce his sentence under the First Step Act of 2018 ("First Step Act"), Pub. L. No. 115-391, 132 Stat. 5194, and reducing his sentence to time served. Byers asserts that the court erred by not revisiting the quantity of drugs for which he was held responsible and the four-level increase to his Sentencing Guidelines offense level due to his possession of a machine gun in connection with another felony offense. We affirm.

In *United States v. Chambers*, 956 F.3d 667 (4th Cir. 2020), we held that, "when imposing a new sentence" under the First Step Act, "a court does not simply adjust the statutory minimum; it must also recalculate the Guidelines range." *Id.* at 672 (internal quotation marks omitted). Furthermore, "any Guidelines error deemed retroactive . . . must be corrected in a First Step Act resentencing." *Id.* at 668. We also held that the § 3553(a) sentencing factors apply and a court "may consider post-sentencing conduct" in determining whether to exercise its discretion to reduce a sentence. *Id.* at 674. Additionally, "the First Step Act does not constrain courts from recognizing Guidelines errors," *id.* at 668, or "preclude the court from applying intervening case law," *id.* at 672, in making its discretionary determination. Byers has not identified any error deemed retroactive or any intervening change to the law not already applied that would impact his Guidelines sentence.

Accordingly, we affirm the district court's order. 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.

AFFIRMED