

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

February 22, 2013

Lyle W. Cayce
Clerk

No. 10-30555
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

CARLOS B. MOORE,

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 5:09-CR-279-11

Before REAVLEY, JOLLY, and DAVIS, Circuit Judges.

PER CURIAM:*

Carlos B. Moore appeals the 292-month prison sentence imposed following his guilty plea conviction of conspiracy to possess with the intent to distribute 50 grams or more of crack cocaine. He argues that his sentence should be vacated and that his case should be remanded for resentencing under the Fair Sentencing Act of 2010 (FSA), 21 U.S.C. § 801, which was enacted during the pendency of his appeal.

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

No. 10-30555

Criminal sentences are reviewed for reasonableness, using an abuse of discretion standard. *Gall v. United States*, 552 U.S. 38, 46-51 (2007). This court reviews *de novo* the interpretation of a sentencing statute. *United States v. Salazar*, 542 F.3d 139, 144 (5th Cir. 2008).

Moore's claim is without merit. The FSA does not apply retroactively to defendants, like Moore, who were sentenced before its enactment. *See Dorsey v. United States*, 132 S. Ct. 2321, 2328-36 (2012); *United States v. Doggins*, 633 F.3d 379, 384 (5th Cir. 2011). Additionally, insofar as Moore contends the FSA must apply immediately to correct a claimed equal-protection violation caused by the statute under which he was sentenced, our court has never recognized such a violation stemming from the sentencing disparity of the prior law. *See, e.g., United States v. Fisher*, 22 F.3d 574, 579 & n.21 (5th Cir. 1994) (noting cocaine-base sentencing disparity not unconstitutional).

AFFIRMED.