

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

April 17, 2023

Lyle W. Cayce
Clerk

No. 20-51001
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

GEORGE LUIS GUZMAN,

Defendant—Appellant.

Appeal from the United States District Court for
the Western District of Texas
USDC No. 7:03-CR-96-1

Before HIGGINBOTHAM, DUNCAN, and ENGELHARDT, *Circuit Judges.*

PER CURIAM:*

George Luis Guzman appealed the district court's November 30, 2020 order denying his motion to reduce his sentence under Section 404 of the First Step Act of 2018. Guzman argued that the district court erred by failing to provide a sufficiently detailed explanation for denying his motion.

* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

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Upon initial consideration of Guzman’s appeal, we remanded for the limited purpose of having the district court clarify its reasons for denying Guzman’s Section 404 motion. *See United States v. Guzman*, No. 20-51001, 2022 WL 17538880 (5th Cir. Dec. 8, 2022) (unpub.) (per curiam). In doing so, we reasoned that similar references to nonexistent “applicable policy statements” had warranted remand in other First Step Act cases. *Id.* at *2 (citing *United States v. Perez*, 27 F.4th 1101, 1103 (5th Cir. 2022) and *United States v. Stewart*, 857 F. App’x 822, 823 (5th Cir. 2021) (unpub.) (per curiam)). The same was true for First Step Act cases in which, as here, the defendant sought a reduction of his term of imprisonment and his supervised release term, but the district court failed to acknowledge the dual nature of the request in denying the motion. *See United States v. Batiste*, 980 F.3d 466, 479 (5th Cir. 2020); *Stewart*, 857 F. App’x at 823.

Guzman’s motion seeks a reduction of his sentence of imprisonment from 262 months to 234 months and reduction of his 8-year term of supervised release to a 6-year term. In the March 4, 2023 order issued upon remand, the district court emphasized that Guzman’s current sentence of 262 months of imprisonment is within the lower statutory and advisory guidelines range (210–262 months) that would apply if he had been sentenced under the Fair Sentencing Act of 2010. Further warranting denial of any reduction of Guzman’s term of imprisonment and/or his term of supervised release, the district court explained, are the factors set forth in 18 U.S.C. § 3553(a)(1) and (2), and Guzman’s behavioral problems while he has been incarcerated, which include drug possession and an admitted “drug problem,” in addition to conduct reflecting a “pattern of violence” and a “high risk of recidivism.”¹

¹ The district court’s March 4, 2023 order states, on page 5: “Defendant’s behavioral problems encompass more than drugs. Indeed, several times Defendant was

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We review the district court’s denial of a motion asserted under Section 404 of the First Step Act of 2018 for an abuse of discretion. *United States v. Jackson*, 945 F.3d 315, 319 (5th Cir. 2019). “Under this standard, the defendant must show the court made an error of law or based its decision on a ‘clearly erroneous assessment of the evidence.’” *United States v. Abdul-Ali*, 19 F.4th 835, 837 (5th Cir. 2021) (quoting *United States v. Larry*, 632 F.3d 933, 936 (5th Cir. 2011)).

With regard to the reasons for a district court’s ruling on a First Step Act motion, the Supreme Court had instructed: “[T]he First Step Act [does not] require a district court to make a point-by-point rebuttal of the parties’ arguments[;] [a]ll that is required is for a district court to demonstrate that it has considered the arguments before it.” *Concepcion v. United States*, 142 S. Ct. 2389, 2405 (2022). The district court’s March 4, 2023 order meets this standard. Considering it and the record before us, we find no abuse of discretion. Accordingly, the district court’s denial of Guzman’s motion for reduction of sentence is AFFIRMED.

caught with dangerous weapons like an ice pick, assaulting fellow inmates, and threatening prison staff.”