

NOT RECOMMENDED FOR FULL-TEXT PUBLICATION

File Name: 14a0609n.06

No. 13-5162

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

FILED
Aug 07, 2014
DEBORAH S. HUNT, Clerk

UNITED STATES OF AMERICA,)
)
 Plaintiff-Appellee,)
)
 v.)
)
 RODNEY MONCRIEF SMITH,)
)
 Defendant-Appellant.)
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**ON APPEAL FROM THE
UNITED STATES DISTRICT
COURT FOR THE WESTERN
DISTRICT OF KENTUCKY**

BEFORE: BATCHELDER, Chief Judge; SILER and DONALD, Circuit Judges.

ALICE M. BATCHELDER, Chief Judge. Appellant Rodney Moncrief Smith appeals the district court’s denial of his motion for reduction of sentence pursuant to 18 U.S.C. § 3582(c)(2). Appellant contends that he is entitled to a sentence reduction based on the new mandatory minimum sentences for crack cocaine offenders contained in the Fair Sentencing Act of 2010, Pub. L. No. 111-220, 124 Stat. 2372 (“FSA”). He also argues that failing to apply the FSA’s lowered minimum sentence violates his constitutional right to equal protection of the law and his right to be free from cruel and unusual punishment. In *United States v. Blewett*, 746 F.3d 647 (6th Cir. 2013) (en banc), cert. denied, 134 S. Ct. 1779 (2014), we held that the FSA’s new mandatory minimums do not apply retroactively, see *id.* at 649, and that their prospective application does not violate an individual’s right to equal protection of the law or his right to be

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free from cruel and unusual punishment, see *id.* at 658–60. Our decision in *Blewett* governs the disposition of this appeal, and we **AFFIRM** the district court’s denial of Appellant’s motion based on our reasoning in *Blewett*.