

# United States Court of Appeals

For the Seventh Circuit  
Chicago, Illinois 60604

Argued October 2, 2020  
Decided June 17, 2021

## Before

KENNETH F. RIPPLE, *Circuit Judge*

MICHAEL S. KANNE, *Circuit Judge*

DAVID F. HAMILTON, *Circuit Judge*

No. 19-3465

UNITED STATES OF AMERICA,  
*Plaintiff-Appellee,*

*v.*

SAMUEL R. HOGSETT,  
*Defendant-Appellant.*

Appeal from the United States District  
Court for the Southern District of Illinois.

No. 05-cr-30196

Staci M. Yandle,  
*Judge.*

## ORDER

Samuel Hogsett was convicted of possessing 0.5 grams of crack cocaine with intent to distribute in violation of 21 U.S.C. § 841(a)(1), (b)(1)(C). In 2019, he filed a motion for resentencing under § 404 of the First Step Act of 2018. Pub. L. No. 115-391, 132 Stat. 5194 (2018). The district court concluded that he was not convicted of a “covered offense” under that law and denied his motion. We reversed. *United States v. Hogsett*, 982 F.3d 463, 468 (7th Cir. 2020).

The government filed a Petition for Rehearing and requested that we hold its petition in abeyance pending the Supreme Court’s decision in *Terry v. United States*, which was to decide this very issue. On June 14, 2021, the Supreme Court held that

persons convicted under § 841(b)(1)(C) are not eligible for resentencing under the First Step Act. *Terry v. United States*, No. 20-5904, slip op. at 8 (June 14, 2021).

Accordingly, we VACATE our decision of December 7, 2020, and AFFIRM the district court's decision denying Hogsett's motion. The government's Petition for Rehearing is DENIED as moot.

AFFIRMED