

UNPUBLISHEDUNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 22-7236

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

KENNETH LEE FOSTER,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of North Carolina, at Asheville. Martin K. Reidinger, Chief District Judge. (1:09-cr-00013-MR-WCM-8)

Submitted: June 22, 2023

Decided: June 26, 2023

Before HARRIS and HEYTENS, Circuit Judges, and TRAXLER, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

Kenneth Lee Foster, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Kenneth Lee Foster appeals the district court's order granting in part his motion for a sentence reduction under § 404(b) of the First Step Act of 2018, Pub. L. No. 115-391, 132 Stat. 5194, 5222 ("First Step Act"). The district court concluded that Foster was eligible for relief under the First Step Act and exercised its discretion to reduce Foster's sentence, but not as low as Foster requested. After reviewing the record, we conclude that the district court did not abuse its discretion in determining the extent of the sentence reduction. *See Concepcion v. United States*, 142 S. Ct. 2389, 2404-05 (2022) (stating standard); *see also United States v. Troy*, 64 F.4th 177, 183-84 (4th Cir. 2023) (discussing application of Sentencing Guidelines in assessing § 404(b) motion); *United States v. Reed*, 58 F.4th 816, 820 (4th Cir. 2023) (describing reasonableness review in § 404(b) context). Accordingly, we affirm the district court's judgment. 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