

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 3:07-cr-283-J-32MCR

DAMON LEE FLAGLER,

Defendant.

ORDER

This case is before the Court on Defendant Damon Lee Flagler's Unopposed Motion for Sentence Reduction under the First Step Act of 2018. (Doc. 86). Section 404 of the First Step Act, Pub. L. No. 115-391, made retroactive the reduction in statutory penalties that were modified by the Fair Sentencing Act of 2010, Pub. L. No. 111-220, 124 Sta. 2372 (2010). According to the First Step Act, a court may "impose a reduced sentence as if [the Fair Sentencing Act of 2010] were in effect at the time the covered offense was committed." First Step Act of 2018, Pub. L. No. 115-391, § 404(b) (2018).

In October 2008, Mr. Flagler was sentenced to 120 months' imprisonment for distributing five or more grams of cocaine base (Count Five of the Superseding Indictment), to run consecutive to 60 months' imprisonment for

possessing a firearm in relation to a qualifying drug offense (Count Six of the Superseding Indictment). (Doc. 43). Additionally, the Court sentenced Mr. Flagler to eight years of supervised release for Count Five to run concurrently with five years of supervised release for Count Six. (Doc. 43). Retroactive application of the Fair Sentencing Act has no impact on Mr. Flagler's sentence for Count Six. However, retroactively applying the Fair Sentencing Act to Count Five reduces Mr. Flagler's guideline range to eighteen to twenty-four months and his term of supervised release to a minimum of six years. (Doc. 83).

The United States and Mr. Flagler agree that a new sentence for Count Five of eighteen months' imprisonment and six years of supervised release is appropriate. (Doc. 86). However, the amended imprisonment sentence for Count Five shall still run consecutive to the sixty-month imprisonment term for Count Six, with all periods of supervised release to run concurrently.

Accordingly, it is hereby

ORDERED:

Defendant Damon Lee Flagler's term of imprisonment as to Count Five is reduced to eighteen months, which shall run consecutive to his sixty-month term of imprisonment as to Count Six, for a total term of imprisonment of seventy-eight months or time served, whichever is greater. USSG § 1B1.10(b)(2)(C). Further, Defendant's term of supervised release as to Count Five is reduced to six years, which shall run concurrently with his five-year

term of supervised release as to Count Six, for a total term of supervised release of six years. All other terms and conditions of the Defendant's Judgment, (Doc. 43), remain in full force and effect.

DONE AND ORDERED in Jacksonville, Florida this 1st day of March, 2019.



TIMOTHY J. CORRIGAN
United States District Judge

jb
Copies:

Counsel of record
United States Marshals Service
United States Probation Office
Bureau of Prisons
Defendant