

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

UNITED STATES OF AMERICA

v.

CASE No. 3:12-cr-34-J-32MCR

CHRISTOPHER SHAMAR
MCCAIN

ORDER

This case is before the Court on Defendant Christopher McCain's pro se Motion to Reduce Sentence under the First Step Act (Doc. 125) filed on January 11, 2019. In the motion, McCain seeks relief under the First Step Act's amendment to 18 U.S.C. § 924(c). However, this case is currently before the Eleventh Circuit on appeal and, therefore, the Court lacks jurisdiction to rule on such motion.¹ United States v. Diveroli, 729 F.3d 1339, 1342 (11th Cir. 2013) (“[T]he filing of a notice of appeal divests the district court of jurisdiction over those parts of the case at issue on appeal.”); see Fed. R. Crim. P. 37(a)(1).

Accordingly, it is hereby

ORDERED:

¹ It appears likely that McCain would not be entitled to relief. The First Step Act states that its amendment to 18 U.S.C. § 924(c) applies to cases where the defendant has yet to be sentenced. McCain was sentenced by this Court on November 30, 2016, more than two years before the First Step Act was signed into law. However, the Court has no jurisdiction to decide this question.

Defendant's Motion to Reduce Sentence under the First Step Act (Doc. 125) is **DENIED without prejudice for lack of jurisdiction.**

DONE AND ORDERED in Jacksonville, Florida this 22nd day of January, 2019.



TIMOTHY J. CORRIGAN
United States District Judge

jb
Copies:

Frank Merrill Talbot, II, AUSA
Darcy D. Galnor, Esquire
U.S. Probation
U.S. Pretrial Services
U.S. Marshals Service
Defendant