

United States Court of Appeals
For the Eighth Circuit

No. 20-1703

United States of America

Plaintiff - Appellee

v.

Terry Markey Miller

Defendant - Appellant

Appeal from United States District Court
for the Southern District of Iowa - Eastern

Submitted: October 28, 2020

Filed: November 2, 2020

[Unpublished]

Before LOKEN, GRUENDER, and GRASZ, Circuit Judges.

PER CURIAM.

Terry Miller appeals the district court's¹ order denying his motions for relief under the First Step Act of 2018 (FSA). *See* Pub. L. No. 115-391, 132 Stat. 5194.

¹The Honorable John A. Jarvey, Chief Judge, United States District Court for the Southern District of Iowa.

The district court determined Miller was eligible for relief under the FSA, but declined to reduce his sentence.

In exercising its discretion to deny relief, the district court considered the factors on which it based Miller’s original sentence and concluded they outweighed Miller’s arguments in favor of a sentence reduction. We find no abuse of discretion in the court’s denial of relief. *See United States v. McDonald*, 944 F.3d 769, 771 (8th Cir. 2019) (standard of review). We also conclude there is no merit to Miller’s arguments the district court’s ruling denied him due process or violated the Double Jeopardy Clause. *See United States v. Schropp*, 829 F.3d 998, 1003 (8th Cir. 2016) (“Essentially, the Double Jeopardy Clause ‘protects against multiple punishments for the same offense.’”); *cf. United States v. Booker*, 974 F.3d 869, 872 (8th Cir. 2020) (holding defendant received due process during sentence-reduction proceedings under FSA where motion came before same judge who imposed original sentence, notice was given of the sentencing court’s anticipated ruling with opportunity to respond, and the sentencing court adequately explained the basis for its decision).

Accordingly, we affirm the judgment of the district court, and grant counsel’s motion for leave to withdraw.
