

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JAN 28 2021

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

No. 19-30256

Plaintiff-Appellee,

D.C. No. 2:04-cr-00201-JLQ-1

v.

MEMORANDUM*

ANTHONY D. JOHNSON,

Defendant-Appellant.

Appeal from the United States District Court
for the Eastern District of Washington
Justin L. Quackenbush, District Judge, Presiding

Submitted January 20, 2021**

Before: McKEOWN, CALLAHAN, and BRESS, Circuit Judges.

Anthony D. Johnson appeals from the district court's order denying in part his motion for a sentence reduction under the First Step Act. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Johnson contends that the First Step Act authorizes a plenary resentencing, and that the district court erred by concluding otherwise and declining to revisit Johnson's designation as a career offender under U.S.S.G. § 4B1.1. As he concedes, this contention is foreclosed. *See United States v. Kelley*, 962 F.3d 470, 479 (9th Cir. 2020) (“[T]he First Step Act does not authorize plenary resentencing[.]”).

AFFIRMED.