

**United States Court of Appeals**  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

---

**No. 12-3063**

**September Term, 2013**

**1:93-cr-00155-TFH-2**

**Filed On: March 7, 2014**

United States of America,

Appellee

v.

Eric T. McKinley,

Appellant

**ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR  
THE DISTRICT OF COLUMBIA**

**BEFORE:** Tatel, Brown, and Pillard, Circuit Judges

**J U D G M E N T**

This appeal was considered on the record from the United States District Court for the District of Columbia and on the briefs filed by the parties. See Fed. R. App. P. 34(a)(2); D.C. Cir. Rule 34(j). It is

**ORDERED AND ADJUDGED** that the district court's order filed August 7, 2012, be affirmed. Appellant sought a sentence reduction under 18 U.S.C. § 3582(c)(2), based on the Fair Sentencing Act of 2010, Pub. L. No. 111-220, which increased the amount of crack cocaine necessary to trigger certain mandatory minimum sentences for distribution-related offenses. As appellant recognizes, this court has held that a defendant "convicted and sentenced before the Fair Sentencing Act's August 3, 2010 effective date . . . cannot benefit from retroactive application of the mandatory minimums." United States v. Swangin, 726 F.3d 205, 207-08 (D.C. Cir. 2013).

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

**Per Curiam**