

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 03-4632

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

RITSON ROY FAIRCLOUGH,

Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at Florence. Terry L. Wooten, District Judge. (CR-03-56)

Submitted: December 11, 2003

Decided: December 19, 2003

Before NIEMEYER and MOTZ, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

Michael A. Meetze, Assistant Federal Public Defender, Florence, South Carolina, for Appellant. J. Strom Thurmond, Jr., United States Attorney, Alfred W. Bethea, Jr., Assistant United States Attorney, Florence, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Ritson Fairclough appeals from his conviction pursuant to a written plea agreement to one count of conspiracy to distribute or possess with intent to distribute more than five kilograms of cocaine, 21 U.S.C. §§ 841(a)(1) and 846 (2000). The district court sentenced Fairclough to 120 months in prison. On appeal, Fairclough argues the court improperly denied him a sentencing reduction under the "safety valve" provision in 18 U.S.C. § 3553(f) (2000).

To qualify for the safety valve reduction, the defendant bears the burden of proving the statutory requirements by a preponderance of the evidence. United States v. Wilson, 114 F.3d 428, 432 (4th Cir. 1997). We review a district court's determination on safety valve eligibility for clear error. United States v. Daughtrey, 874 F.3d 213, 217 (4th Cir. 1989). We conclude that the district court's decision that defendant had not met his burden of proof was not clearly erroneous. Therefore, we affirm Fairclough's sentence. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED