

NONPRECEDENTIAL DISPOSITION

To be cited only in accordance with FED. R. APP. P. 32.1

United States Court of Appeals
For the Seventh Circuit
Chicago, Illinois 60604

Submitted January 27, 2026*

Decided January 28, 2026

Before

MICHAEL Y. SCUDDER, *Circuit Judge*

AMY J. ST. EVE, *Circuit Judge*

CANDACE JACKSON-AKIWUMI, *Circuit Judge*

No. 25-1763

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

JACOBY WALKER,
Defendant-Appellant.

Appeal from the United States District
Court for the Northern District of
Indiana, Hammond Division.

No. 2:97 CR 88

James T. Moody,
Judge.

ORDER

Jacoby Walker, a federal inmate, appeals from the district court's order granting his motion for a sentence reduction under 18 U.S.C. § 3582(c)(2) based on the retroactive

* We have agreed to decide the case without oral argument because the briefs and record adequately present the facts and legal arguments, and oral argument would not significantly aid the court. FED. R. APP. P. 34(a)(2)(C).

application of Amendment 821 to the Sentencing Guidelines. He now argues that the court erred by failing to reduce his sentence further. We affirm.

In 1995, Walker was convicted of distributing cocaine and sentenced to three years' probation. While on probation, he continued his cocaine distribution and was again arrested.

In 1998, a jury convicted Walker of several drug-related crimes, including distribution of five or more grams of crack cocaine in violation of 21 U.S.C. § 841(a)(1). The district court sentenced him to life imprisonment. At the time, life was the maximum penalty for a defendant who violated 21 U.S.C. § 841(a)(1) "after a prior conviction for a felony drug offense ha[d] become final." 21 U.S.C. § 841(b)(1)(A). Walker fit this description because of his 1995 conviction.

We affirmed Walker's sentence, while noting the district court should not have assessed Walker criminal history points under the Guidelines for the 1995 sentence because it was "not a 'prior sentence' but part of the instant offense." *United States v. Frazier*, 213 F.3d 409, 417 (7th Cir. 2000). We found the miscalculation did not meet the plain error test because Walker's base offense level yielded a guideline range of life, regardless of his criminal history category. *Id.* at 418.

In 2021, Walker moved to reduce his sentence under the First Step Act. Pub. L. No. 115-391, 132 Stat. 5194, which made retroactive portions of the Fair Sentencing Act of 2010 that lowered penalties for certain crack-cocaine offenses. The district court granted Walker's motion and reduced his sentence to 30 years—the statutory maximum for a defendant with a prior qualifying drug conviction. 21 U.S.C. § 841(b)(1)(C).

In 2024, Walker moved to reduce his sentence under 18 U.S.C. § 3582(c)(2) based on Amendment 821 to the Sentencing Guidelines, a retroactive amendment that authorizes a two-offense-level reduction for offenders with zero criminal history points. Walker argued that he had zero criminal history points because his 1995 conviction was part of the instant offense and not a prior offense. *See Frazier*, 213 F.3d at 417–18. The district court agreed, recalculated Walker's guidelines range at 324 to 405 months, and sentenced him to 324 months (27 years)—the bottom of that range.

On appeal, Walker urges that the district court erred in not granting him a greater sentence reduction under § 3582(c)(2). For the first time, he now argues that because the 1995 conviction could not be used for criminal history points for the instant offense, it also could not be used to increase his statutory sentencing range under § 841.

That is, if the district court agreed that he did not have a “prior conviction for a felony drug offense” for guidelines purposes, then his maximum prison term under § 841(b)(1)(C) should fall from 30 to 20 years. And his current sentence of 27 years would wrongly exceed that statutory maximum.

To begin, Walker forfeited this argument because he did not raise it first in the district court. Our review, then, is for plain error, *United States v. Williams*, 32 F.4th 653, 655 (7th Cir. 2022), meaning that we will reverse only if the district court made an error that is “clear or obvious” and that error affected Walker’s substantial rights, *United States v. Pankow*, 884 F.3d 785, 791 (7th Cir. 2018).

The district court made no error. A “prior conviction” can be used to increase a defendant’s statutory sentencing range under § 841(b)(1)(C) if any of the defendant’s criminal conduct in the offense postdates the prior final conviction. *United States v. Garcia*, 32 F.3d 1017, 1019 (7th Cir. 1994); *United States v. Alden*, 527 F.3d 653, 663–64 (7th Cir. 2008). The statute, which targets recidivism, “makes no exception for related conduct.” *Id.* at 1018–19. Here, Walker’s 1995 drug conviction became final before he resumed dealing drugs while on probation, and that conviction was properly used to enhance his sentencing range under § 841(b)(1)(C).

AFFIRMED