



In Amicus Brief, Durbin, Grassley, Booker, Lee Call On Supreme Court To Make Lowest-Level Drug Offenders Eligible For First Step Act Relief

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WASHINGTON – U.S. Senate Democratic Whip Dick Durbin (D-IL), Chair of the Senate Judiciary Committee; U.S. Senator Chuck Grassley (R-IA), Ranking Member of the Senate Judiciary Committee; and U.S. Senators Cory Booker (D-NJ) and Mike Lee (R-UT) today submitted an Amicus Brief to the U.S. Supreme Court in *Tarahrick Terry v. United States*, a case related to the interpretation of provisions of the First Step Act of 2018 (FSA) and the Fair Sentencing Act of 2010. The Fair Sentencing Act, authored by Durbin, reduced the federal sentencing disparity between crack and powder cocaine from 100:1 to 18:1. In 2018, Durbin, Grassley, Booker, and Lee were the lead sponsors of the First Step Act, which made the Fair Sentencing Act retroactive.

The brief explains that Section 404 of the FSA authorizes relief to everyone who had been sentenced for crack-cocaine offenses before the Fair Sentencing Act became effective, including individuals with low-level crack offenses. However, in 2019 the Justice Department argued that the lowest level crack offenses are not covered offenses. The brief calls on the Supreme Court to reject that argument.

Several U.S. Courts of Appeal, including the 1st, 4th, and 7th Circuits have rejected the Justice Department's 2019 argument and held that the lowest level offenses are covered offenses, but the 11th Circuit wrongly accepted the argument in *Terry*. The Supreme Court's decision in *Terry* will resolve this split and dictate whether low-level crack offenders who were subject to the 100:1 ratio will be eligible for resentencing as the First Step Act and Fair Sentencing Act dictates.

The Senators wrote: “The text Congress enacted makes retroactive relief broadly available to all individuals sentenced for crack-cocaine offenses before the Fair Sentencing Act.”

Click [here](#) to read the full Amicus Brief.