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LDF Issues Statement on Supreme Court Holding That Lowest-Level Offenders Are Ineligible for Reduced Resentencing Under First Step Act

On Monday, the United States Supreme Court issued an opinion in *Terry v. United States* holding that the First Step Act does not permit people convicted and sentenced for offenses involving small amounts of crack-cocaine to be resentenced, if their conviction did not result in a mandatory-minimum sentence.

In 2010, Congress passed the Fair Sentencing Act, which reduced—but did not eliminate—a 100:1 sentencing disparity for crack-cocaine offenses when compared to powder cocaine offenses, despite the absence of any meaningful difference between crack and powder cocaine. For years, this 100:1 disparity led to disproportionately excessive sentences for Black Americans, who were more likely to be convicted of crack-cocaine offenses, compared to white Americans who were more likely to be convicted of powder-cocaine offenses. The First Step Act, passed by Congress in 2018, retroactively applied reduced sentencing provisions to people sentenced under the previous 100:1 disparity.

The question before the Court was whether the First Step Act applies retroactively to people sentenced to crimes involving the lowest amounts of crack-cocaine, even if they were not subject to mandatory minimums affected by the 100:1 disparity, but whose sentences were impacted by the disparity in other ways. The NAACP Legal Defense and Education Fund, Inc. (LDF), along with the ACLU, filed an amicus brief in the case highlighting that Congressional sponsors and supporters of the First Step Act intended to address the egregious and racially inequitable crack-powder sentencing disparities, which continue to impact the lives of thousands of Black Americans and their families. Monday's decision by the Court, however, is a step backward from that goal.

“The Court’s decision is disappointing and runs contrary to Congress’s intent in passing the First Step Act,” said Sam Spital, Director of Litigation at LDF. “It leaves people convicted with the smallest amounts of crack-cocaine with no avenues to petition for resentencing, even if their sentences were impacted by the infamous 100:1 disparity between crack-cocaine and powder-cocaine offenses. With the Court’s decision, the 100:1 disparity will continue to have very real and deleterious consequences for many Black Americans whose sentences were infected by this discriminatory and irrational law.”

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Founded in 1940, the NAACP Legal Defense and Educational Fund, Inc. (LDF) is the nation’s first civil and human rights law organization. LDF has been completely separate from the National Association for the Advancement of Colored People (NAACP) since 1957—although LDF was originally founded by the NAACP and shares its commitment to equal rights. LDF’s Thurgood Marshall Institute is a multi-disciplinary and collaborative hub within LDF that launches targeted campaigns and undertakes innovative research to

shape the civil rights narrative. In media attributions, please refer to us as the NAACP Legal Defense Fund or LDF. Follow LDF on [Twitter](#), [Instagram](#) and [Facebook](#).