

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

October 22, 2008

No. 07-10172
Conference Calendar

Charles R. Fulbruge III
Clerk

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

EDWARD EUGENE CADE

Defendant-Appellant

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:05-CR-139-ALL

Before KING, BARKSDALE, and OWEN, Circuit Judges.

PER CURIAM:*

Edward Eugene Cade pleaded guilty to possession with intent to distribute 6 kilograms or more of cocaine, 500 grams or more of cocaine base, and 1200 grams or more of marijuana (Count 1) and to possession of a firearm during a drug trafficking offense (Count 2). The district court found Cade to be a career offender but sentenced him below the advisory guideline range to 216 months of imprisonment on Count 1. The court sentenced Cade to the statutory minimum

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

60-month sentence on Count 2, to be served consecutively to the sentence imposed for Count 1.

Cade argues that the district court erred in enhancing his sentence as a career offender pursuant to U.S.S.G. § 4B1.1 based on a finding that his Texas conviction for possession of a controlled substance with intent to deliver was a “controlled substance offense.” Cade correctly concedes that this argument is foreclosed by *United States v. Ford*, 509 F.3d 714, 717 (5th Cir. 2007), cert. denied, 2008 WL 1803624 (Oct. 6, 2008) (No. 07-10458), and he raises it solely to preserve it for further possible review.

The Government has filed a motion for summary affirmance, which is GRANTED. The Government’s motion for dismissal of the appeal and alternative motion for an extension of time for filing an appellate brief are DENIED, and the judgment of the district court is AFFIRMED.