

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-4186

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

RENE ELLIS, a/k/a Nut, a/k/a Money,

Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at Columbia. Cameron McGowan Currie, District Judge. (3:01-1024-CMC-7)

Submitted: August 23, 2006

Decided: September 29, 2006

Before MOTZ, TRAXLER, and KING, Circuit Judges.

Affirmed by unpublished per curiam opinion.

James P. Craig, CRAIG LAW FIRM, P.C., Columbia, South Carolina, for Appellant. Reginald I. Lloyd, United States Attorney, Marshall Prince, Assistant United States Attorney, Columbia, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Rene Ellis appeals the sentence he received after this court vacated his sentence and remanded for resentencing in light of United States v. Booker, 543 U.S. 220 (2005), and United States v. Hughes, 401 F.3d 540 (4th Cir. 2005). On remand, the district court readopted its previous findings to determine the advisory guideline range, considered the factors set out in 18 U.S.C.A. § 3553(a) (West 2000 & Supp. 2006), and imposed the same sentence. Ellis contends on appeal that his sentence was imposed in violation of the Sixth Amendment because the district court made a factual finding to determine that he was an organizer of the offense, as it did at the original sentencing, which again resulted in a sentence enhancement based on the judge's findings rather than a jury's determination. However, because the district court sentenced Ellis under an advisory guideline scheme, no Sixth Amendment error occurred. See Hughes, 401 F.3d at 546 (in post-Booker sentencing, district court should make all factual findings appropriate to determination of advisory guideline range).

We therefore affirm the district court's amended judgment. 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