

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-4456

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

LAWRENCE W. NELSON, a/k/a Zikee,

Defendant - Appellant.

On Remand from the Supreme Court of the United States.
(S. Ct. No. 08-5657)

Submitted: May 29, 2009

Decided: July 7, 2009

Before NIEMEYER and DUNCAN, Circuit Judges, and HAMILTON, Senior
Circuit Judge.

Vacated and remanded by unpublished per curiam opinion.

Christopher A. Davis, DAVIS LAW OFFICES, Clarksburg, West
Virginia, for Appellant. Sharon L. Potter, United States
Attorney, Zelda E. Wesley, Assistant United States Attorney,
Clarksburg, West Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

In United States v. Nelson, 276 F. App'x 331 (4th Cir. 2008), we affirmed Lawrence W. Nelson's 360-month sentence imposed by the district court after a jury convicted Nelson of conspiracy to distribute and possess with intent to distribute more than fifty grams of crack cocaine, in violation of 21 U.S.C. § 846 (2006). Nelson filed a petition for writ of certiorari, and the Supreme Court vacated the judgment and remanded the case to us for further consideration in light of Rita v. United States, 551 U.S. 338 (2007), and Gall v. United States, 552 U.S. 38 (2007). See Nelson v. United States, 129 S. Ct. 890 (2009). Upon further consideration, we vacate Nelson's sentence and remand for resentencing consistent with the Supreme Court's decision in Nelson.* 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.

VACATED AND REMANDED

* We note that, in his original appeal, Nelson also challenged his conviction on several grounds. Because the Supreme Court's opinion remanding the case does not affect the issues Nelson raised with regard to his conviction, we reinstate our prior opinion affirming his conviction. See United States v. Nelson, 237 F. App'x 819, 820-21 (4th Cir. 2007).