

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 07-4686

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

LENARDO RODRIKUS MCGEE,

Defendant - Appellant.

Appeal from the United States District Court for the Middle District of North Carolina, at Durham. James A. Beaty, Jr., Chief District Judge. (1:06-cr-00444-JAB)

Submitted: October 31, 2007

Decided: December 4, 2007

Before TRAXLER, SHEDD, and DUNCAN, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Louis C. Allen, Federal Public Defender, William C. Ingram, First Assistant Federal Public Defender, Greensboro, North Carolina, for Appellant. Anna Mills Wagoner, United States Attorney, David P. Folmar, Jr., Assistant United States Attorney, Greensboro, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Lenardo Rodrikus McGee appeals from his 117-month sentence. He contends that the district court erred in declining to vary from the advisory Sentencing Guidelines range on the basis of the harshness of the Guidelines' 100:1 crack-to-powder cocaine ratio.

McGee's claim is barred by our prior decision that a sentencing court cannot vary from the advisory Sentencing Guidelines range based on a disagreement with the sentencing disparity for crack and powder cocaine offenses. See United States v. Eura, 440 F.3d 625, 633-34 (4th Cir. 2006), petition for cert. filed, ___ U.S.L.W. ___ (U.S. June 20, 2006) (No. 05-11659). Accordingly, we affirm McGee's sentence. 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