

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 07-4852

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

JAMES E. GOODE,

Defendant - Appellant.

Appeal from the United States District Court for the Southern District of West Virginia, at Charleston. John T. Copenhaver, Jr., District Judge. (2:06-cr-00262)

Submitted: January 17, 2008

Decided: January 23, 2008

Before TRAXLER, SHEDD, and DUNCAN, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Carl J. Roncaglione, Jr., Charleston, West Virginia, for Appellant. Charles T. Miller, United States Attorney, Lisa G. Johnston, Assistant United States Attorney, Huntington, West Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

James E. Goode pled guilty to receipt of child pornography in violation of 18 U.S.C. § 2252(a)(2) (2000), and was sentenced to the mandatory minimum term of five years imprisonment. The court also imposed a ten-year term of supervised release. See 18 U.S.C.A. § 3583(k) (West Supp. 2007). Goode appeals his sentence on the ground that the advisory guideline range was incorrectly calculated. We affirm.

The district court adopted the guideline calculation set out in the presentence report, overruling Goode's objections and finding that the guideline range would have been 37-46 months, but was increased to the statutory minimum term of 60 months under U.S. Sentencing Guidelines Manual § 5G1.1(b) (2002).* Goode does not dispute that he was subject to the 60-month minimum term or that the guideline range was 60 months pursuant to § 5G1.2(b). He contends that the court should have applied USSG § 2G2.4 (possession of child pornography) instead of § 2G2.2 (trafficking in child pornography), and erred in making an enhancement for distribution under subsection (b)(2)(E). Both issues pertain only to the initial computation of the guideline range before the application of § 5G1.1(b). We conclude that the district court correctly determined that Goode's guideline range was 60 months and

*Goode's offense was committed in October 2003. The 2002 Guidelines Manual was applied to avoid ex post facto issues.

sentenced him accordingly.

We therefore affirm the sentence imposed by the district court. 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