

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 13-4525

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

TARREN RAMONE HUGHEY, a/k/a Ty,

Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at Columbia. Cameron McGowan Currie, Senior District Judge. (3:12-cr-00850-CMC-1)

Submitted: March 18, 2014

Decided: April 4, 2014

Before KEENAN, DIAZ, and FLOYD, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Parks N. Small, Federal Public Defender, Columbia, South Carolina, for Appellant. William N. Nettles, United States Attorney, William K. Witherspoon, Assistant United States Attorney, Columbia, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Tarren Ramone Hughey pled guilty to conspiracy to commit Hobbs Act robbery, 18 U.S.C. § 1951(a), and was sentenced to 188 months' imprisonment. He now appeals, claiming that the Government breached the plea agreement when it moved for an upward departure or variance from Hughey's Guidelines range based on under-representation of his criminal history. We affirm.

Hughey concedes that the Government did not expressly agree not to request an upward departure and, contrary to Hughey's assertion, no such promise was implied in the plea agreement. We therefore conclude that Hughey has not met his burden of establishing by a preponderance of the evidence that a breach occurred. See United States v. Snow, 234 F.3d 187, 189 (4th Cir. 2000).

Accordingly, we affirm. 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