

April 12, 2007

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 05-10910
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

RICHARD A. MANUEL,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:04-CR-24-ALL

Before DAVIS, BARKSDALE and BENAVIDES, Circuit Judges.

PER CURIAM:*

The district court revoked Richard A. Manuel's supervised release, and he was sentenced to serve 23 months in prison and 36 months on supervised release. Manuel appeals his sentence. He argues that his sentence is unreasonable because it exceeded the advisory guideline range and because the district court failed to provide sufficient reasons for the sentence. He requests that this court vacate his sentence and remand the case for resentencing.

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

We have yet to decide whether revocation sentences imposed following the release of United States v. Booker, 543 U.S. 220 (2005), should be reviewed under the reasonableness standard or the plainly unreasonable standard. See United States v. Hinson, 429 F.3d 114, 120 (5th Cir. 2005), cert. denied, 126 S. Ct. 1804 (2006). Nevertheless, resolution of this issue is not needed to dispose of this appeal because Manuel has not shown that he should prevail under either standard. See id. Manuel's sentence exceeded the recommended guidelines sentence but not the pertinent statutory maximum sentence. Further, a review of the record demonstrates that the district court considered the relevant sentencing factors. See United States v. Smith, 440 F.3d 704, 707 (5th Cir. 2006). Consequently, the sentence was neither unreasonable nor plainly unreasonable, and the judgment of the district court is AFFIRMED.