

FILED

August 16, 2007

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

Charles R. Fulbruge III
Clerk

No. 06-31259
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

CARDAL HAYES,

Defendant-Appellant.

Appeal from the United States District Court
for the Eastern District of Louisiana
USDC No. 2:05-CR-227-1

Before HIGGINBOTHAM, STEWART, and OWEN, Circuit Judges.

PER CURIAM:*

Cardal Hayes entered a guilty plea to a charge of being a felon in possession of a firearm and was sentenced to 72 months of imprisonment and three years of supervised release. Hayes asserts that the district court's upward deviation from the advisory sentencing range of 24 to 30 months was not proper or reasonable.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

The record reflects that the district court calculated the applicable guidelines range, used that range as a frame of reference, and decided to upwardly deviate from that range. The district court addressed the factors of 18 U.S.C. § 3553(a) and cited fact specific reasons for the imposition of Hayes's sentence. See *United States v. Tzep-Majia*, 461 F.3d 522, 527 (5th Cir. 2006). The district court's consideration of victim impact was not in error. See *United States v. Rajwani*, 476 F.3d 243, 250 (5th Cir.), opinion modified, 479 F.3d 904 (2006). Because the district court did not fail to account for a factor which should have received significant weight, give significant weight to an improper factor, or make a clear error of judgment in balancing sentencing factors, Hayes's sentence is reasonable. See *United States v. Smith*, 440 F.3d 704, 707-09 (5th Cir. 2006).

Accordingly, the district court's judgment is **AFFIRMED**.