

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

March 27, 2008

No. 07-10732

Summary Calendar

Charles R. Fulbruge III
Clerk

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

KIMBERLY NEWELL KINDLEY

Defendant-Appellant

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:04-CR-36-2

Before KING, DAVIS and CLEMENT, Circuit Judges.

PER CURIAM:*

Kimberly Newell Kindley appeals the district court's decision to revoke her term of supervised release. See 18 U.S.C. § 3583(g). She argues that the district court erred in finding that it could not impose substance-abuse treatment pursuant to 18 U.S.C. § 3583(d) in lieu of incarceration. Kindley committed several violations of the conditions of her supervised release. Failure of a drug

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

test was but one of those violations. Accordingly, there was no error in the district court's revocation of supervised release and imposition of a term of imprisonment. See *United States v. Harper*, 34 Fed. App'x 150 (5th Cir. 2002);¹ 5TH CIR. R. 47.5.4.

AFFIRMED.

¹ Although an unpublished opinion issued after January 1, 1996 is not controlling precedent, it may be considered as persuasive authority. See *Ballard v. Burton*, [444 F.3d 391, 401](#) & n.7 (5th Cir. 2006) (citing [5TH CIR. R. 47.5.4.](#)).