

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

April 17, 2012

Lyle W. Cayce
Clerk

No. 11-10850
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

RANDY NEECE,

Defendant-Appellant

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:11-CR-84-1

Before JONES, Chief Judge, and JOLLY and SMITH, Circuit Judges.

PER CURIAM:*

Appealing the judgment in a criminal case, Randy Neece raises arguments that are foreclosed by *United States v. Brown*, 920 F.2d 1212, 1216-17 (5th Cir. 1991), *abrogated on other grounds by United States v. Candia*, 454 F.3d 468, 472-73 (5th Cir. 2006), which held that a district court has the discretion to order a federal sentence to run consecutively to a yet-to-be-imposed state sentence under 18 U.S.C. § 3584. *See Setser v. United States*, ___ S. Ct. ___, No. 10-7387, 2012 WL 1019970, at **2-8 (Mar. 28, 2012). The Government's motion for

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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summary affirmance is GRANTED, the Government's alternative motion for an extension of time to file a brief is DENIED, and the judgment of the district court is AFFIRMED.