

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 03-4607

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

CARL TERRELL JUDGE,

Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at Charleston. Sol Blatt, Jr., Senior District Judge. (CR-02-188)

Submitted: March 25, 2004

Decided: March 30, 2004

Before TRAXLER, KING, and DUNCAN, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Hervery B. O. Young, Assistant Federal Public Defender, Greenville, South Carolina, for Appellant. J. Strom Thurmond, Jr., United States Attorney, Columbia, South Carolina, Miller W. Shealy, Jr., Assistant United States Attorney, Charleston, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Carl Judge pled guilty to conspiracy to possess with intent to distribute five or more kilograms of cocaine and fifty or more grams of cocaine base (crack), 21 U.S.C. § 846 (2000), and was sentenced as a career offender to a term of 262 months imprisonment. U.S. Sentencing Guidelines Manual § 4B1.1 (2002). Judge contends on appeal that the district court plainly erred in sentencing him as a career offender. We affirm.

Judge maintains that his three prior felony drug convictions were related cases because they were part of a single common scheme or plan, see USSG § 4A1.2, comment. (n.3), and should have been counted as one prior conviction. Thus, in his view, he lacked the two predicate convictions necessary to qualify him for a career offender sentence. Judge overlooks the fact that his prior offenses were separated by intervening arrests. Id. Consequently, the district court did not plainly err in counting each offense separately in Judge's criminal history or in sentencing him as a career offender.

We therefore affirm the sentence imposed by the district court. 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