

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 04-5027

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

DAVID A. WILLIAMS,

Defendant - Appellant.

Appeal from the United States District Court for the Western District of Virginia, at Charlottesville. Norman K. Moon, District Judge. (3:03-cr-00120)

Submitted: October 17, 2006

Decided: October 19, 2006

Before NIEMEYER, KING, and DUNCAN, Circuit Judges.

Affirmed by unpublished per curiam opinion.

J. Lloyd Snook, III, SNOOK & HAUGHEY, P.C., Charlottesville, Virginia, for Appellant. John L. Brownlee, United States Attorney, Donald R. Wolthuis, Assistant United States Attorney, Roanoke, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

A jury convicted David A. Williams of possession of a firearm by a previously convicted felon, a violation of 18 U.S.C. § 922(g)(1) (2000). The district court sentenced Williams to sixty-three months' imprisonment under the then-mandatory sentencing guidelines. The sentencing court also imposed an identical alternative sentence, pursuant to United States v. Hammoud, 378 F.3d 426 (4th Cir.) (order), opinion issued by 381 F.3d 316 (4th Cir. 2004) (en banc), vacated, 543 U.S. 1097 (2005), on remand, 405 F.3d 1034 (4th Cir. 2005). Williams appeals, contending his sentence violated United States v. Booker, 543 U.S. 220 (2005).

The Sixth Amendment error in this case, if any, was harmless because the district court imposed an identical alternative sentence in accordance with Hammoud. See United States v. Shatley, 448 F.3d 264, 267 (4th Cir. 2006). The district court's alternative sentence was within the range recommended by the sentencing guidelines, and this court takes the district court at its word when it states it would impose the same sentence under the advisory guideline system. See id. at 267-68. Therefore, we presume the district court properly considered the sentencing factors set forth in 18 U.S.C.A. § 3553(a) (West 2000 & Supp. 2005), as required by United States v. Hughes, 401 F.3d 540, 546-56 (4th Cir. 2005); United States v. Green, 436 F.3d 449 (4th Cir.)

cert. denied, 126 S. Ct. 2309 (2006); and United States v. Moreland, 437 F.3d 424 (4th Cir. 2006). Shatley, 448 F.3d at 268.

Accordingly, we affirm Williams' sentence. 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