

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 04-5081**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

MARLIN ANDREW MARRS,

Defendant - Appellant.

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**No. 06-4051**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

MARLIN ANDREW MARRS,

Defendant - Appellant.

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Appeals from the United States District Court for the Southern District of West Virginia, at Bluefield. David A. Faber, Chief District Judge. (CR-03-289; 1:03-cr-00289)

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Submitted: June 19, 2006

Decided: July 6, 2006

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Before WILKINSON, MOTZ, and TRAXLER, Circuit Judges.

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Affirmed by unpublished per curiam opinion.

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Mary Lou Newberger, Federal Public Defender, Jonathan D. Byrne, Appellate Counsel, Michael L. Desautels, Assistant Federal Public Defender, Charleston, West Virginia, for Appellant. Charles T. Miller, United States Attorney, John L. File, Assistant United States Attorney, Beckley, West Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

These cases are before the court after our limited remand for resentencing under United States v. Booker, 543 U.S. 220 (2005). Marlin Andrew Marrs appeals the forty-one-month sentence imposed after remand, on his guilty plea to distribution of cocaine base, in violation of 21 U.S.C. § 841(a)(1) (2000). Marrs challenges the reasonableness of this sentence, contending that it is longer than necessary to comply with the factors set forth in 18 U.S.C.A. § 3553(a)(2) (West 2000 & Supp. 2006). We find, however, that the district court sentenced Marrs only after appropriately considering and examining the sentencing guidelines and the § 3553(a) factors, as instructed by Booker. The court sentenced Marrs within the applicable advisory guideline range and well below the twenty-year statutory maximum set forth in 21 U.S.C.A. § 841(b)(1)(C) (West 2000 & Supp. 2006).

We cannot conclude that, under these circumstances, Marrs's sentence is unreasonable. See United States v. Green, 436 F.3d 449, 457 (4th Cir.) (finding that sentence imposed within properly calculated advisory guidelines range is presumptively reasonable), cert. denied, \_\_\_ U.S. \_\_\_, 74 U.S.L.W. 3654 (U.S. May 22, 2006) (No. 05-10474); see also United States v. Johnson, 445 F.3d 339, 346 (4th Cir. 2006) (finding that district court's "detailed inquiry into the various circumstances bearing upon

[defendant's] sentence" satisfied court's obligation to consider § 3553(a) factors).

Accordingly, we affirm the 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