

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 05-4222**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

LARRY RODNEY GREEN,

Defendant - Appellant.

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Appeal from the United States District Court for the Southern District of West Virginia, at Beckley. David A. Faber, Chief District Judge. (CR-03-00292)

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Submitted: January 25, 2006

Decided: February 15, 2006

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Before LUTTIG, MICHAEL, and KING, Circuit Judges.

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Affirmed by unpublished per curiam opinion.

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Stanley I. Selden, SELDEN LAW OFFICES, L.C., Beckley, West Virginia, for Appellant. Charles T. Miller, Acting 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Unpublished opinions are not binding precedent in this circuit.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:

Larry Rodney Green pled guilty to conspiracy to manufacture methamphetamine. He was sentenced following the Supreme Court's opinion in United States v. Booker, 543 U.S. 220 (2005). The district court sentenced Green to seventy-two months of imprisonment relying on Booker, and our decision in United States v. Hughes, 401 F.3d 540, 546 (4th Cir. 2005). Green appeals, alleging he was improperly sentenced under Booker. For the reasons that follow, we affirm.

Green contends that his due process rights, as informed by ex post facto principles, were violated by the imposition of a sentence under the Supreme Court's remedial decision in Booker (referring to the Court's opinion expressed through Justice Breyer making the Federal Sentencing Guidelines advisory rather than mandatory) rather than under the mandatory Guidelines applicable at the time of his offense. We find that this claim is without merit. See United States v. Dupas, 419 F.3d 916, 919-21 (9th Cir. 2005) (rejecting ex post facto claim) United States v. Jamison, 416 F.3d 538, 539-40 (7th Cir. 2005) (same); United States v. Lata, 415 F.3d 107, 110-11 (1st Cir. 2005) (same); United States v. Scroggins, 411 F.3d 572, 575-77 (5th Cir. 2005) (same); United States v. Duncan, 400 F.3d 1297, 1306-08 (11th Cir.) (same), cert. denied, \_\_\_ U.S. \_\_\_, 126 S. Ct. 432 (2005).

Accordingly, we affirm. 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