

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 05-4650**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

CHRISTOPHER DEWAYNE CUNNINGHAM,

Defendant - Appellant.

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Appeal from the United States District Court for the Middle District of North Carolina, at Durham. N. Carlton Tilley, Jr., Chief District Judge. (CR-04-200-NCT)

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Submitted: December 16, 2005

Decided: January 18, 2006

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Before NIEMEYER, SHEDD, and DUNCAN, Circuit Judges.

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Affirmed by unpublished per curiam opinion.

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Louis C. Allen, III, Federal Public Defender, William S. Trivette, Assistant Federal Public Defender, Greensboro, North Carolina, for Appellant. Anna Mills Wagoner, United States Attorney, Paul A. Weinman, Assistant United States Attorney, Winston-Salem, North Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Christopher Dewayne Cunningham appeals the 185-month sentence imposed after he pled guilty to bank robbery, in violation of 18 U.S.C. § 2113(a) (2000). He contends that, in light of United States v. Booker, 543 U.S. 220, 125 S. Ct. 738 (2005), his sentence is unreasonable. We affirm.

Cunningham asserts on appeal that his sentence is unreasonable because he presented mitigating factors at the sentencing hearing to support a lower sentence. Although the Sentencing Guidelines are no longer mandatory, Booker makes clear that a sentencing court "must consult [the] Guidelines and take them into account when sentencing." 125 S. Ct. 767 (Breyer, J., opinion of the Court). The court should consider this sentencing range along with the other factors described in 18 U.S.C.A. § 3553(a) (West 2000 & Supp. 2005), and then impose a sentence. See United States v. Hughes, 401 F.3d 540, 546 (4th Cir. 2005) (applying Booker on plain error review). The sentence must be "within the statutorily prescribed range and . . . reasonable." Id. at 546-47 (citations omitted).

In sentencing Cunningham, the district court considered the properly calculated advisory Sentencing Guideline range and the factors in § 3553(a). Because the court sentenced Cunningham within the advisory Guideline range and within the twenty-year statutory maximum, see 18 U.S.C. § 2113(a), we conclude that the

sentence is reasonable. Accordingly, we affirm Cunningham's 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