

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-4081

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

YOUNG DOWELL, JR.,

Defendant - Appellant.

Appeal from the United States District Court for the Southern District of West Virginia, at Bluefield. David A. Faber, Chief District Judge. (1:04-cr-00066)

Submitted: May 16, 2006

Decided: May 22, 2006

Before WILLIAMS, MOTZ, and TRAXLER, Circuit Judges.

Affirmed by unpublished per curiam opinion.

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, Charleston, West Virginia; Miller A. Bushong III, Assistant United States Attorney, Beckley, West Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Young Dowell, Jr. appeals his 210 month prison sentence resulting from his conviction for distribution of cocaine base in violation of 21 U.S.C. § 841(a)(1) (2000).^{*} Finding no reversible error, we affirm.

Dowell claims that his sentence was unreasonable. After United States v. Booker, 543 U.S. 220 (2005), a sentencing court is no longer bound by the range prescribed by the sentencing guidelines, but still must calculate and consider the guideline range as well as the factors set forth in 18 U.S.C. § 3553(a) (2000). See United States v. Hughes, 401 F.3d 540, 546 (4th Cir. 2005). We will affirm a post-Booker sentence if it is both reasonable and within the statutorily prescribed range. Id.

As Dowell's 210 month prison sentence was within the properly calculated sentencing guideline range of 188 to 235 months' imprisonment, it is presumptively reasonable. United States v. Green, 436 F.3d 449 (4th Cir. 2006). Dowell has not rebutted that presumption as the district court appropriately treated the guidelines as advisory, calculated and considered the guideline range, and weighed the relevant § 3553(a) factors.

^{*}We vacated Dowell's original 210 month prison sentence in light of United States v. Booker, 543 U.S. 220 (2005). See United States v. Dowell, No. 04-4973 (4th Cir. Aug. 16, 2005). On remand, after taking into account the advisory guidelines, the district court resentenced Dowell to 210 months' imprisonment.

Accordingly, we affirm the district court's judgment. 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