

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-5256

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

DARRELL DARNELL MCCLURE, a/k/a Oink,

Defendant - Appellant.

Appeal from the United States District Court for the Middle District of North Carolina, at Durham. William L. Osteen, Senior District Judge. (1:06-cr-00232-WL-1)

Submitted: July 24, 2007

Decided: July 26, 2007

Before WILKINSON, TRAXLER, and DUNCAN, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Louis C. Allen III, Federal Public Defender, Eric D. Placke, Assistant Federal Public Defender, Greensboro, North Carolina, for Appellant. Anna Mills Wagoner, United States Attorney, David P. Folmar, Jr., Assistant United States Attorney, Brian Tevis, Third Year Law Student, Greensboro, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Darrell Darnell McClure pled guilty to possession of 26.1 grams of cocaine base (crack) with intent to distribute, 21 U.S.C.A. § 841(a)(1), (b)(1)(B) (West 1999 & Supp. 2007), and was sentenced to a term of 164 months' imprisonment. McClure appeals his sentence, challenging this court's decision to accord a presumption of reasonableness to a sentence within a correctly calculated guideline range as a return to mandatory guideline sentencing. He also argues that his sentence, which is in the middle of the advisory guideline range, is unreasonable because it is greater than necessary to accomplish the goals of 18 U.S.C.A. § 3553(a) (West 2000 & Supp. 2007). We affirm.

McClure's first issue is foreclosed by the Supreme Court's decision in Rita v. United States, 127 S. Ct. 2456 (2007) (upholding presumption of reasonableness standard). Moreover, our review of the record discloses that McClure has failed to rebut the presumption of reasonableness.

We therefore affirm the sentence imposed by the district court. 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