

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-4655

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ERIC RICHARD WATTS,

Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at Columbia. Margaret B. Seymour, District Judge. (3:06-cr-00452-MBS-12)

Submitted: January 15, 2009

Decided: January 22, 2009

Before MOTZ and SHEDD, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

Langdon D. Long, Assistant Federal Public Defender, Columbia, South Carolina, for Appellant. W. Walter Wilkins, United States Attorney, Stanley D. Ragsdale, Assistant United States Attorney, Columbia, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Eric Richard Watts appeals his sentence on his conviction of conspiracy to manufacture, possess with intent to distribute, and distribute 50 grams or more of methamphetamine and 500 grams or more of a mixture containing methamphetamine, in violation of 21 U.S.C. §§ 841(a)(1), 841(b)(1)(A), 846 (2006). The sole issue on appeal is whether there exists an improper sentencing discrepancy between the district court's oral pronouncement and the criminal judgment such that Watts' sentence should be vacated and the case remanded for resentencing. We find no error.

Review of the record reveals that the district court granted Watts a three-level downward departure, based on the Government's motion, as well as a downward variance of twenty-one months from the bottom of a properly calculated advisory guideline range, and imposed a sentence of forty-two months' imprisonment. In its oral pronouncement, the district court imposed the forty-two month sentence, stating that the twenty-one month variance was based on Watts' motion alleging extraordinary rehabilitation, and a credit for time Watts previously had served in state custody. While the written order of judgment does not reflect the district court's oral pronouncement regarding the state sentence credit, the sentence reflected on the judgment order reflects the same orally-

pronounced sentence of forty-two months' imprisonment. Moreover, the accompanying Statement of Reasons, issued in conjunction with the criminal judgment, clearly states that the twenty-one month variance was based upon previous time Watts served in state custody.

Accordingly, we find no error in the judgment order or any contradiction between the oral pronouncement and the criminal judgment regarding the state sentence such that remand is necessary. We affirm Watts' 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