

UNPUBLISHED

UNITED STATES COURT OF APPEALS

FOR THE FOURTH CIRCUIT

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

No. 95-5899

WENDELL WILLIAM INGRAM,
Defendant-Appellant.

Appeal from the United States District Court
for the Middle District of North Carolina, at Greensboro.
Richard C. Erwin, Senior District Judge.
(CR-95-148)

Submitted: June 19, 1997

Decided: July 3, 1997

Before WILKINS and MICHAEL, Circuit Judges, and BUTZNER,
Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

COUNSEL

Walter T. Johnson, Jr., Greensboro, North Carolina, for Appellant.
Walter C. Holton, Jr., United States Attorney, Robert M. Hamilton,
Assistant United States Attorney, Greensboro, North Carolina, for
Appellee.

Unpublished opinions are not binding precedent in this circuit.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

OPINION

PER CURIAM:

Wendell William Ingram appeals from a criminal conviction after a guilty plea for possession with intent to distribute heroin in violation of 21 U.S.C. § 841(a)(1) (1994). The district court sentenced Ingram to a 46 month term of imprisonment to run consecutively to another federal sentence he was serving. Finding no error, we affirm.

On appeal, Ingram challenges only the imposition of his sentence to run consecutively, and not concurrently, to the sentence he was then serving. The applicable guideline, USSG § 5G1.3 (Nov. 1995), states that the court has the discretion to impose a concurrent, consecutive, or partially concurrent sentence when a defendant in this situation is already serving an undischarged term of imprisonment.

We review factual issues regarding application of the Guidelines under a clearly erroneous standard. See United States v. Daughtrey, 874 F.2d 213, 217 (4th Cir. 1989). We review the legal issues involving application of the Guidelines de novo. Id. To the extent that the issue before the court is more factual than legal, the standard of review approaches that of review for clear error. Id.

The district court should consider factors set forth in 18 U.S.C. § 3584 (1994), and take note of four additional factors stated in USSG § 5G1.3, comment. (n.3), in determining a reasonable punishment. See USSG § 5G1.3, comment. (n.3). In his brief, Ingram makes a conclusory claim that the district court failed to make any findings with respect to the necessary considerations.

First, § 5G1.3 does not require the district court to make specific findings regarding the enumerated factors. See USSG § 5G1.3, comment. (n.3). Second, the district court reviewed the presentence report and heard argument from both parties regarding the imposition of the

sentence. The information before the court included the considerations enumerated in the Guideline. We find that the district court did not err in imposing a consecutive 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