

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 05-4797

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

GAYLON R. DAHN,

Defendant - Appellant.

Appeal from the United States District Court for the Southern
District of West Virginia, at Beckley. David A. Faber, Chief
District Judge. (CR-03-294)

Submitted: May 12, 2006

Decided: May 24, 2006

Before WILLIAMS and DUNCAN, Circuit Judges, and HAMILTON, Senior
Circuit Judge.

Affirmed by unpublished per curiam opinion.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, Acting United States Attorney, Hunter P. Smith, Jr.,
Assistant United States Attorney, Charleston, West Virginia, for
Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Gaylon R. Dahn pled guilty to two counts of inducing illegal entry in violation of 8 U.S.C. § 1342(a)(1)(A)(iv) (2000). He was sentenced following the Supreme Court's opinion in United States v. Booker, 543 U.S. 220 (2005). The district court sentenced Dahn to two concurrent terms of forty-eight months of imprisonment. Dahn appeals, alleging his sentence following Booker violated his due process rights, as informed by ex post facto principles. This claim is foreclosed by our recent decision in United States v. Davenport, 445 F.3d 366 (4th Cir. 2006). Accordingly, we affirm. 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