

August 17, 2005

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 04-40999
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

AKBAR RASHADA,

Defendant-Appellant.

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 01:04-CR-9-ALL-TH

Before BENAVIDES, CLEMENT, and PRADO, Circuit Judges.

PER CURIAM:*

Akbar Rashada, an inmate at the federal penitentiary in Beaumont, Texas, pleaded guilty to possessing a prohibited object (namely, a metal weapon) within the territorial jurisdiction of the United States. Rashada was sentenced to 27 months of imprisonment and a two-year term of supervised release. He argues that, in light of United States v. Booker, 125 S. Ct. 738 (2005), his sentence is invalid because the district court applied the sentencing guidelines as if they were mandatory. We review for plain error. See United States v. Valenzuela-Quevedo,

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

407 F.3d 728, 733 (5th Cir. 2005), petition for cert. filed (July 25, 2005) (No. 05-5556).

Rashada is unable to establish reversible plain error with regard to his Booker claim because he cannot establish that being sentenced under a mandatory sentencing guidelines scheme affected his substantial rights. The record does not indicate that the district court would have reached a significantly different result under a sentencing scheme in which the guidelines were advisory only. See Valenzuela-Quevedo, 407 F.3d at 733-34.

Accordingly, the judgment of the district court is AFFIRMED.