

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

United States Court of Appeals  
Fifth Circuit

**FILED**

August 31, 2007

Charles R. Fulbruge III  
Clerk

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No. 06-31173  
Summary Calendar

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UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

KENNY LUCAS

Defendant-Appellant

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Appeal from the United States District Court  
for the Eastern District of Louisiana  
USDC No. 2:00-CR-280-1

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Before JONES, Chief Judge, and REAVLEY and PRADO, Circuit Judges.

PER CURIAM:\*

Kenny Lucas appeals the district court's revocation of his supervised release and imposition of a 27-month term of imprisonment. Lucas specifically argues that the district court erred in considering public safety dangers that might arise if Lucas were to use cocaine while at his job as a dumptruck driver in deciding to revoke Lucas's supervised release. While the district court cited such concerns at Lucas's revocation hearing, the court expressly based its revocation of Lucas's supervised release upon Lucas's admitted, repeated

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

possession and use of cocaine. See 18 U.S.C. § 3583(g). Accordingly, the district court did not abuse its discretion in revoking Lucas's supervised release and imposing a term of imprisonment. See *United States v. Spraglin*, 418 F.3d 479, 480 (5th Cir. 2005). Lucas's 27-month sentence did not exceed the three-year statutory maximum. See 18 U.S.C. § 3583(e)(3). His revocation sentence was therefore neither "unreasonable" nor "plainly unreasonable." See *United States v. Hinson*, 429 F.3d 114, 120 (5th Cir. 2005), cert. denied, 547 U.S. 1083 (2006). Finally, Lucas argues that the district court erred in citing Lucas's need for rehabilitation as a basis for its judgment. Lucas properly concedes that this argument is foreclosed by this court's decision in *United States v. Giddings*, 37 F.3d 1091, 1097 (5th Cir. 1994).

AFFIRMED.