

June 22, 2005

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 04-41046
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

BRODERICK BRADSHAW,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 6:03-CR-58-ALL

Before WIENER, BENAVIDES, and DENNIS, Circuit Judges.

PER CURIAM:*

Broderick Bradshaw appeals his sentence imposed following his guilty plea to use of a communication facility in committing a drug offense. He was sentenced to 34 months of imprisonment and one year of supervised release. Bradshaw argues for the first time on appeal and pursuant to Blakely v. Washington, 124 S. Ct. 2531 (2004), and United States v. Booker, 125 S. Ct. 738 (2005), that his sentence is illegal.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Bradshaw has not established plain error with regard to his Blakely and Booker claim because he has not established that being sentenced under a mandatory 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 United States v. Mares, 402 F.3d 511, 520-22 (5th Cir. 2005), petition for cert. filed (Mar. 31, 2005) (No. 04-9517). Accordingly, the district court's judgment is AFFIRMED.