

May 10, 2006

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 05-30742
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

KENNETH EDWARD RIVERE,

Defendant-Appellant.

Appeal from the United States District Court
for the Middle District of Louisiana
USDC No. 3:04-CR-81-1

Before KING, DeMOSS, and PRADO, Circuit Judges.

PER CURIAM:*

Kenneth Edward Rivere appeals his 150-month sentence following his guilty-plea conviction for bank robbery. Rivere avers that the district court erroneously departure upward and that the extent of the departure was unreasonable.

Rivere has not shown that the district court's decision to upwardly depart at sentencing was either unreasonable or an abuse of discretion. See United States v. Simkanin, 420 F.3d 397, 416 (5th Cir. 2005); United States v. Smith, 417 F.3d 483, 489 (5th

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Cir. 2005). The district court's decision to depart was grounded in an acceptable basis. See 18 U.S.C. § 3553(a)(1). Further, the departure itself was acceptable with respect to both percentage and magnitude. See Smith, 417 F.3d at 492. Consequently, the judgment is AFFIRMED.