

November 1, 2006

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-11326
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

KENNETH JEFFERY JORDAN,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:02-CR-233-3-G

ON REMAND FROM THE SUPREME COURT OF THE UNITED STATES

Before BARKSDALE, DENNIS, and CLEMENT, Circuit Judges.

PER CURIAM:*

Kenneth Jordan appeals his sentence imposed prior to United States v. Booker, 543 U.S. 220 (2005), under the assumption that the Sentencing Guidelines were mandatory. Jordan first raised the objection on appeal, and we review for plain error. United States v. Mares, 402 F.3d 511, 516 (5th Cir. 2005). Because Jordan has not pointed to anything in the record indicating that the trial judge would have sentenced him differently under an advisory sentencing

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

regime, he cannot show plain error under Mares. Id. at 522. We therefore AFFIRM.