

October 5, 2006

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 06-10401
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

RICHARD ALLEN WILSON, JR.,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:03-CR-182-ALL

Before JONES, Chief Judge, and SMITH and STEWART, Circuit Judges.

PER CURIAM:*

Appealing the Judgment in a Criminal Case, Richard Allen Wilson, Jr., raises arguments that are foreclosed by United States v. Valdez, 453 F.3d 252, 264 (5th Cir. 2006), which reiterated that a sentencing court may consider conduct underlying an acquitted charge, so long as that conduct has been proved by a preponderance of the evidence, and by United States v. Mares, 402 F.3d 511, 119 (5th Cir.), cert. denied, 126 S. Ct. 43 (2005), and its progeny, which hold that, after United States v. Booker, 543 U.S. 220 (2005), the sentencing court may still

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

find all facts relevant to sentencing by a preponderance of the evidence. The Government's motion for summary affirmance is GRANTED, and the judgment of the district court is AFFIRMED.