

February 23, 2006

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 04-11494
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

RONALD EDWARD STEWART,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:04-CR-61-ALL

Before GARZA, DENNIS, and PRADO, Circuit Judges.

PER CURIAM:*

Ronald Edward Stewart appeals from his guilty-plea conviction for two counts of bank robbery. He argues that the district court committed plain error by sentencing him as a career offender, pursuant to U.S.S.G. § 4B1.1(b)(C), based upon his two prior Texas state convictions for burglary of a habitation. As Stewart concedes, this issue is reviewed only for plain error because he did not object on this basis in district court. See United States v. Garcia-Cantu, 302 F.3d 308, 310 (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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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. 2002); see also United States v. Villegas, 404 F.3d 355, 363 (5th Cir. 2005). The district court did not commit plain error on this basis. See United States v. Hornsby, 88 F.3d 336, 339 (5th Cir. 1996).

Stewart also contends that, because his sentence was increased based upon the finding that he was a career offender, his Sixth Amendment rights were violated and he should be resentenced under the mandatory federal Sentencing Guidelines without reliance upon the career-offender finding. As he concedes, his argument is foreclosed by Almendarez-Torres v. United States, 523 U.S. 224 (1998), and by United States v. Scroggins, 411 F.3d 572 (5th Cir. 2005).

Accordingly, the judgment of the district court is AFFIRMED.