

July 14, 2006

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 04-31214
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

BOBBY JOHNSON,

Defendant-Appellant.

Appeal from the United States District Court
for the Middle District of Louisiana
No. 3:04-CV-115
No. 3:98-CR-165-5

Before SMITH, WIENER, and OWEN, Circuit Judges.

PER CURIAM:*

Bobby Johnson, a federal prisoner, appeals the denial of his motion to amend his 28 U.S.C. § 2255 motion, wherein he challenges his conviction of extortion, conspiring to commit extortion, mail and wire fraud, and making a false statement. Johnson seeks to

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

amend his § 2255 motion to raise a constitutional issue under Blakely v. Washington, 542 U.S. 296 (2004). The district court denied leave to amend but granted Johnson a certificate of appealability on the issue whether he should be permitted to raise a claim under Blakely.

Johnson argues that the court abused its discretion by denying him leave to amend. He asserts that the court committed error under Blakely and United States v. Booker, 543 U.S. 220 (2005), by applying mandatory sentencing guidelines to enhance his sentence based on facts neither admitted nor found by a jury and that Booker applies retroactively to his case. Johnson's arguments concerning Blakely and Booker are foreclosed. See United States v. Edwards, 442 F.3d 258, 264 (5th Cir. 2006), cert. denied, 2006 U.S. LEXIS 4975 (U.S. June 26, 2006) (No. 05-1504); United States v. Gentry, 432 F.3d 600, 605 (5th Cir. 2005). The court did not abuse its discretion.

AFFIRMED.