

April 13, 2007

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 06-30858
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

MALCOLM SCOTT GUILLORY,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 2:05-CR-20142

Before DeMOSS, STEWART, and PRADO, Circuit Judges.

PER CURIAM:*

Malcolm Scott Guillory appeals the sentence imposed following his plea of guilty to one count of distribution of cocaine base in violation of 21 U.S.C. § 841(a). The parties contend that the record is not sufficient to establish whether Guillory's prior conviction for simple burglary under Louisiana law was a crime of violence for purposes of the career offender enhancement under U.S.S.G. § 4B1.1. Thus, they request that the matter be remanded for development of the record and resentencing with respect to the application of the § 4B1.1 enhancement.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

After reviewing the record, we agree with the parties that a remand is appropriate. See United States v. Garcia, 470 F.3d 1143, 1146 (5th Cir. 2006). Accordingly, we VACATE Guillory's sentence and we REMAND for development of the record and resentencing. See id. The judgment of the district court is in all other respects AFFIRMED.