

April 11, 2007

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 05-50663
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

LARRY RANDOLF DELANCEY,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Texas
No. 6:04-CR-238-ALL

Before SMITH, WIENER, and OWEN, Circuit Judges.

PER CURIAM:*

Larry Delancey appeals his life sentence following his jury-trial conviction of being a felon in possession of a firearm. He argues that his sentence is unreasonable because the district court failed to provide reasons for imposing it. Because Delancey did not object to the imposition of the non-guideline sentence in the district court, we review for plain error. See United States v.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Jones, 444 F.3d 430, 436 (5th Cir.), cert. denied, 126 S. Ct. 2958 (2006).

The record reflects that the district court considered the applicable advisory guideline range and decided to depart upwardly from that range based on its consideration of individualized and proper 18 U.S.C. § 3553(a) factors, including the nature and circumstances of the offense and Delancey's history and characteristics; the need to provide just punishment and deter criminal conduct; and the need to protect the public from further crimes by Delancey. See United States v. Smith, 440 F.3d 704, 707-09 (5th Cir. 2006). The district court's stated reasons for the upward departure are not based on improper or irrelevant factors, nor do they represent a clear error of judgment in balancing the sentencing factors. See id. at 708.

The court's stated reasons also allowed this court to determine that the non-guideline sentence is supported by the § 3553(a) factors. See id. at 707. Delancey has failed to show plain error, and the judgment is AFFIRMED.