

FILED

August 9, 2005

Charles R. Fulbruge III
Clerk

UNITED STATES COURT OF APPEALS
FIFTH CIRCUIT

No. 03-50160

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

DONALD KEITH CRAWFORD, SR.,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Texas
(SA-02-CR-23-1)

ON REMAND FROM THE SUPREME COURT OF THE UNITED STATES

Before JOLLY, JONES, and BARKSDALE, Circuit Judges.

PER CURIAM:*

This court affirmed Donald Keith Crawford's conviction and sentence, following a jury trial, for 11 counts of bank fraud, in violation of 18 U.S.C. §§ 1344 and 2, and two counts of making false statements for the purpose of influencing the action of a financial institution, in violation of 18 U.S.C. § 1014. **United States v. Crawford**, 03-50160, 2004 WL 887316 (5th Cir. 27 April 2004). The Supreme Court granted Crawford's petition for writ of

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

certiorari and for leave to proceed *in forma pauperis*; vacated our previous judgment; and remanded the case for further consideration in the light of *United States v. Booker*, 543 U.S. ___, 125 S. Ct. 738 (2005). *Crawford v. United States*, 125 S. Ct. 991 (2005).

We requested supplemental briefs from the parties addressing the impact of *Booker*. Crawford filed a supplemental brief; the Government moved to reinstate the prior affirmance of Crawford's conviction and sentence, or, in the alternative, for an extension of time to file its supplemental brief. Crawford did not respond to this motion.

Crawford did not raise *Booker*-error until his petition for writ of certiorari. Absent extraordinary circumstances, we will not consider a defendant's *Booker*-related claims presented for the first time in a petition for writ of certiorari. *United States v. Taylor*, ___ F.3d ___, 2005 WL 1155245, at * 1 (5th Cir. 17 May 2005). Crawford has not demonstrated the requisite extraordinary circumstances. Therefore,

IT IS ORDERED that Appellee's motion to reinstate prior affirmance of Appellant's conviction and sentence is

GRANTED.

IT IS FURTHER ORDERED that Appellee's alternative request for an extension of time of 14 days from the court's denial of the

motion to reinstate prior affirmance of Appellant's conviction and sentence to file its supplemental brief is

DENIED AS MOOT.