

March 29, 2007

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

Charles R. Fulbruge III
Clerk

No. 05-10827
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JAMES DAVID DANIEL,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:92-CR-98

Before SMITH, WIENER, and OWEN, Circuit Judges.

PER CURIAM:*

Defendant-Appellant James David Daniel appeals the district court's revocation of his supervised release, which had been imposed following his conviction of attempted possession of a listed chemical with intent to manufacture a controlled substance.

Daniel contends that his sentence was unreasonable because the district court did not give adequate reasons for sentencing him above the advisory guidelines range. We need not decide the appropriate standard of review for a sentence imposed on revocation of supervised release in the wake of United States v. Booker, 543

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

U.S. 220 (2005), because Daniel has not shown that his sentence was either unreasonable or plainly unreasonable. See United States v. Hinson, 429 F.3d 114, 120 (5th Cir. 2005), cert. denied, 126 S. Ct. 1804 (2006). Although it is in excess of the recommended range, Daniel's sentence is within the statutory maximum sentence that the district court could have imposed. Furthermore, a review of the record demonstrates that the district court considered the relevant sentencing factors. See United States v. Smith, 440 F.3d 704, 707 (5th Cir. 2006). Daniel's sentence was neither unreasonable nor plainly unreasonable.

AFFIRMED.