

FILED

August 21, 2007

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

Charles R. Fulbruge III
Clerk

No. 06-11417
Conference Calendar

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

ROBERT CHARLES MORRIS

Defendant-Appellant

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:06-CR-51

Before HIGGINBOTHAM, SMITH, and CLEMENT, Circuit Judges.

PER CURIAM:*

Robert Charles Morris pleaded guilty to possession of child pornography and received a sentence of 210 months in prison. On appeal, he argues that the presumption of reasonableness given by this court to sentences within the advisory range of the Sentencing Guidelines, as in *United States v. Mares*, 402 F.3d 511, 519-20 (5th Cir. 2005), returns the Guidelines to the unconstitutional mandatory status they held before *United States v. Booker*,

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

543 U.S. 220 (2005). Morris contends that the presumption has been called into question by intervening Supreme Court cases. The presumption created by this court does not violate the Sixth Amendment. *Rita v. United States*, 127 S. Ct. 2456, 2462-68 (2007).

After counsel filed his brief, Morris moved to relieve his counsel and for appointment of substitute counsel. "Counsel may be relieved upon a showing that there is a conflict of interest or other most pressing circumstances or that the interests of justice otherwise require relief of counsel." FIFTH CIRCUIT PLAN UNDER THE CRIMINAL JUSTICE ACT, § 5(B). Morris has not made the required showing.

The judgment of the district court is AFFIRMED. The Government's motion for summary affirmance is GRANTED, and the Government's motion for dismissal or an extension of time to file an appellate brief is DENIED. Morris's motion to relieve appointed counsel and appoint new counsel is DENIED.