

October 19, 2006

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 06-30199
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

KENNETH WAYNE PEARSON,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 1:01-CR-10012-3

Before DAVIS, BARKSDALE and BENAVIDES, Circuit Judges.

PER CURIAM:*

Kenneth Wayne Pearson appeals the sentence he received after this court remanded his case for resentencing in light of United States v. Booker, 543 U.S. 220 (2005). Pearson argues that the district court misapplied the Guidelines by not granting him a two-level reduction in his offense level under U.S.S.G. § 3B1.2 for his mitigating role. Given that Pearson's role was not peripheral to the Brown Drug Organization, the denial of such an adjustment was not clearly erroneous. See United States v. Caldwell, 448 F.3d 287, 290 (5th Cir. 2006); 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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.

Villanueva, 408 F.3d 193, 204 (5th Cir.), cert. denied, 126 S. Ct. 268 (2005).

The district court's 188-month sentence, which was a deviation from the Guidelines, was not an abuse of discretion. The district court articulated its reasons for the sentence and those reasons reflected the totality of the factors set forth in 18 U.S.C. § 3553(a). See United States v. Armendariz, 451 F.3d 352, 358 n.5 (5th Cir. 2006); United States v. Smith, 440 F.3d 704, 707 (5th Cir. 2006).

AFFIRMED.