

June 29, 2007

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 06-31090
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ALLAN MARTIN BENNETT,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 2:05-CR-20203-1

Before REAVLEY, GARZA and BENAVIDES, Circuit Judges.

PER CURIAM:*

Allan Martin Bennett appeals the 132-month sentence he received following his guilty-plea conviction for conspiracy to possess and distribute more than five kilograms of cocaine, in violation of 21 U.S.C. § 846. He challenges the presumption of reasonableness that attaches to a sentence imposed within a properly calculated guidelines range, relying on the Supreme Court's grant of certiorari in Rita v. United States, 127 S. Ct. 551 (2006). Because an intervening Supreme Court case explicitly or implicitly overruling prior precedent is required to alter

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

this court's precedent, the grant of certiorari in Rita has no impact on this court's precedent. See United States v. Short, 181 F.3d 620, 624 (5th Cir. 1999). And now the Supreme Court has decided Rita, ___ S.Ct. ___ 2007 WL 1772146 (June 21, 2007), upholding the rule of this court.

Bennett's sentence was within a properly calculated advisory guideline range and is entitled to great deference. See United States v. Mares, 402 F.3d 511, 520 (5th Cir. 2005). But aside from that deference, because of this record and because the sentencing court considered all the factors for a fair sentence under 18 U.S.C. § 3553(a), we conclude that Bennett has failed to demonstrate that his sentence was unreasonable. See id. at 519-20. The judgment of the district court is AFFIRMED.