

June 6, 2007

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 06-51427
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

DAVID KENT,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 1:06-CR-120-1

Before SMITH, BENAVIDES, and DENNIS, Circuit Judges.

PER CURIAM:*

Appealing the Judgment in a Criminal Case, David Kent raises arguments that are foreclosed by United States v. Stone, 306 F.3d 241, 243 (5th Cir. 2002), which held that no Sixth Amendment violation arises when a district court considers the existence of prior convictions rather than presenting the question to a jury in sentencing the defendant under the Armed Career Criminal Act. The Government's motion for summary affirmance is GRANTED, and the judgment of the district court is AFFIRMED.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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