

FILED

June 14, 2007

Charles R. Fulbruge III
Clerk

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 06-60864
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-

Appellee,

versus

DALE ROY CREEL, also known as Shorty,

Defendant-

Appellant.

Appeal from the United States District Court
for the Southern District of Mississippi
USDC No. 1:03-CR-80-1

Before DeMOSS, STEWART and PRADO, Circuit Judges.

PER CURIAM:*

Following a jury trial, Dale Roy Creel was convicted of one charge involving methamphetamine and three firearms charges. He was sentenced to serve life in prison on the drug charge and a total of 27 years in prison on the firearms charges. This court affirmed his conviction but remanded for resentencing in light of *United States v. Booker*, 543 U.S. 220 (2005). On remand, the district court reimposed the sentence that it had initially given Creel. Creel now appeals that

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

sentence. Creel also moves this court to stay this appeal pending the issuance of opinions in *Rita v. United States*, 127 S. Ct. 551 (2006), and *Claiborne v. United States*, 127 S. Ct. 551 (2006). His motion is DENIED.

Creel argues that the district court erred by basing his sentence on its own factual findings, which were made under the preponderance of the evidence standard. This argument is unavailing. The district court committed no error by sentencing Creel in accordance with its own factual findings. *See United States v. Betancourt*, 422 F.3d 240, 246 (5th Cir. 2006).

Creel also argues that his sentence is unreasonable and that the district court failed to accord proper weight to the sentencing factors given in 18 U.S.C. § 3553. This argument lacks merit. The record shows that the district court gave due weight to the relevant factors when sentencing Creel and that Creel's sentence is not unreasonable. *See United States v. Mares*, 402 F.3d 511, 518-19 (5th Cir. 2005). The judgment of the district court is AFFIRMED.