

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

August 18, 2009

Charles R. Fulbruge III
Clerk

No. 08-11071
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

ANDRE LAMAR COLLIER,

Defendant-Appellant

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 1:08-CR-31-ALL

Before HIGGINBOTHAM, DAVIS, and CLEMENT, Circuit Judges.

PER CURIAM:*

Appealing the judgment in a criminal case, Andre Lamar Collier presents arguments that are foreclosed by *United States v. Harrimon*, 568 F.3d 531, 532 (5th Cir.2009), which held that a violation of TEXAS PENAL CODE §38.04(b)(1) is a violent felony for purposes of the Armed Career Criminal Act, and *United States v. Brown*, 920 F.2d 1212, 1216-17 (5th Cir. 1991), *abrogated on other grounds by United States v. Candia*, 454 F.3d 468, 472-73 (5th Cir. 2006), which held that a district court may order a term of imprisonment to run consecutively

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

to an unimposed state sentence. The Government's motion for summary affirmance is GRANTED, and the judgment of the district court is AFFIRMED.