

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 94-10433  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

DAVID BRYAN KEITH,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 94-CR-03-C

- - - - -  
(November 15, 1994)

Before JONES, DUHÉ, and PARKER, Circuit Judges.

PER CURIAM:\*

A sentence imposed pursuant to the Guidelines will be upheld unless "it is imposed in violation of the law, was imposed because of an incorrect application of the Guidelines, or is outside the range of reasonable applicable Guidelines and is unreasonable." United States v. Gaitan, 954 F.2d 1005, 1008 (5th Cir. 1992)(internal quotation and citation omitted). This Court reviews the sentencing court's interpretation of the Guidelines de novo. United States v. Lara-Velasquez, 919 F.2d 946, 953 (5th Cir. 1990).

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\* Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

Section 2K2.1(a)(4)(A) dictates a base offense level of 20 if the defendant convicted of a prohibited transaction involving firearms "had one prior felony conviction of . . . a crime of violence . . . ." A "crime of violence" is defined as "any offense under federal or state law punishable by imprisonment for a term exceeding one year that . . . is burglary of a dwelling . . . ." § 4B1.2(1). The conduct of which the defendant was convicted is the focus of the crime-of-violence inquiry. § 4B1.2, comment. (n. 2).

"[T]he burglary of a habitation under Tex. Penal Code Ann. § 30.02 (1989) is a 'crime of violence' for purposes of § 4B1.2." United States v. Jackson, 22 F.3d 583 (5th Cir. 1994).

The sentence was not unreasonable nor the result of an incorrect application of the Guidelines.

AFFIRMED.