IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-50064
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

MALCOLM SHABAZZ ROYSTER,

Defendant-Appellant.

- - - - - - - - - - -
Appeal from the United States District Court
for the Western District of Texas
USDC No. A-90-CR-86
- - - - - - - - - - -
(September 20, 1994)

Before KING, SMITH, and BENAVIDES, Circuit Judges.

PER CURIAM:[*]

Malcolm Shabazz Royster pleaded guilty to one count of unlawful possession of a firearm, and was sentenced to 30 months imprisonment, three years supervised release, and a $50 special assessment. After serving his prison term, he was released to begin his supervised release term. Royster pleaded true to the allegations in a petition to revoke his supervised release, and the district court found that Royster had used and possessed

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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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

marijuana and revoked his supervised release. Royster was sentenced to 24 months imprisonment.

Royster argues that there is insufficient evidence to establish that he possessed marijuana because the district court relied only on urinalysis results. We review for clear error the factual finding that Royster possessed marijuana. See United States v. Smith, 978 F.2d 181, 182 (5th Cir. 1992). Royster admitted to his probation officer that he used marijuana and pleaded "true" to the charge during the hearing to revoke his supervised release. Royster's admissions and the four positive urinalysis results are sufficient to support the district court's finding that Royster possessed marijuana. Smith, 978 F.2d at 182.

Royster also argues that the district court improperly failed to consider the policy statements under U.S.S.G. § 7B1.4, p.s., before sentencing him to 24 months imprisonment. The district court must consider, but is not bound by, the policy statements under § 7B1.4. United States v. Mathena, 23 F.3d 87, 93 (5th Cir. 1994). The district court was aware of the policy statements, and the record does not show that the district court did not consider them. Additionally, under similar circumstances we have upheld a 24-month sentence, holding that it was not "plainly unreasonable." See United States v. Headrick, 963 F.2d 777, 782-83 (5th Cir. 1992).

AFFIRMED.