

FILED

February 23, 2006

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 04-10937
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

CHARLES EUBANKS,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:93-CR-42-7-A

Before GARZA, DENNIS, and PRADO, Circuit Judges.

PER CURIAM:*

Charles Eubanks has appealed the district court's judgment revoking his supervised release and imposing a 24-month term of imprisonment. Eubanks contends that his rights to grand jury indictment and a jury trial were violated, in light of Blakely v. Washington, 542 U.S. 296 (2004), and United States v. Booker, 543 U.S. 220, 125 S. Ct. 738 (2005). He complains that the total sentence imposed by the district court exceeded the sentence he could have received under the Sentencing Guidelines for the

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

offense of conviction and that the additional sentence was imposed on the basis of facts found by the district court by a preponderance of the evidence instead of by a jury beyond a reasonable doubt. These issues are without merit. See United States v. Hinson, 429 F.3d 114, 116-19 (5th Cir. 2005); see also Booker, 125 S. Ct. at 764. The sentence was not imposed in violation of law and was neither unreasonable nor plainly unreasonable under the facts of this case. See Hinson, 429 F.3d at 119-20; see also 18 U.S.C. §§ 3559(a)(3) & 3583(e)(3).

AFFIRMED.