

August 17, 2005

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 04-20229
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

BYRON DONSHA ADAMS,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:02-CR-297-2

Before BENAVIDES, CLEMENT, and PRADO, Circuit Judges.

PER CURIAM:*

Byron Donsha Adams appeals his sentence following his guilty-plea conviction for conspiracy to possess with intent to distribute 50 grams or more of cocaine base and possession with intent to distribute 50 grams or more of cocaine base. Adams argues that his sentence is unconstitutional in light of United States v. Booker, 125 S. Ct. 738 (2005), because he was sentenced under a mandatory guidelines scheme. We review for plain error. United States v. Mares, 402 F.3d 511, 520 (5th Cir. 2005),

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

petition for cert. filed (Mar. 31, 2005) (No. 04-9517); United States v. Valenzuela-Quevedo, 407 F.3d 728, 732 (5th Cir. 2005), petition for cert. filed (July 25, 2005) (No. 05-5556).

The district court committed error that is plain by sentencing Adams under a mandatory sentencing guidelines scheme. Valenzuela-Quevedo, 407 F.3d at 733. However, Adams fails to carry his burden of showing that this error affected his substantial rights. Id. at 733-34. The district court made no comments indicating that it would have imposed a lesser sentence in the absence of mandatory guidelines. Accordingly, the judgment of the district court is AFFIRMED.