

May 30, 2007

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

Charles R. Fulbruge III
Clerk

No. 06-50476
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JUAN ALBERTO CEDILLO,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 2:03-CR-224-3

Before DeMOSS STEWART, and PRADO, Circuit Judges.

PER CURIAM:*

Following a jury trial, Juan Alberto Cedillo was convicted of one charge of simple possession of cocaine and one charge of importation of cocaine. The district court sentenced him to serve 12 months in prison on the possession count to run concurrently with 70 months in prison on the importation count. This court affirmed his conviction but remanded for resentencing in light of United States v. Booker, 543 U.S. 220 (2005). On remand, the district court reimposed the sentence that it had initially given Cedillo. Cedillo now appeals that sentence.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Cedillo argues that the district court erred by basing his sentence on its own factual findings, which were made under the preponderance of the evidence standard. This argument is unavailing. The district court committed no error by sentencing Cedillo in accordance with its own factual findings. See United States v. Valdez, 453 F.3d 252, 264 (5th Cir. 2006); see also United States v. Betancourt, 422 F.3d 240, 246 (5th Cir. 2006). The judgment of the district court is AFFIRMED.