

UNPUBLISHED ORDER
Not to be cited per Circuit Rule 53

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

February 1, 2006

Before

Hon. WILLIAM J. BAUER, Circuit Judge

Hon. RICHARD D. CUDAHY, *Circuit Judge*

Hon. DIANE S. SYKES, *Circuit Judge*

No. 04-2376

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

KENNETH W. LOCKARD,
Defendant-Appellant.

Appeal from the United States District
Court for the Southern District of
Illinois

No. 02CR40066-005-JPG

J. Phil Gilbert,
Judge

O R D E R

After the Supreme Court held that the federal sentencing guidelines are advisory rather than mandatory, *United States v. Booker*, 125 S. Ct. 738 (2005), we ordered a limited remand to determine whether the district court would have sentenced Lockard differently had it known that it was not bound by the guidelines. *See United States v. Paladino*, 401 F.3d 471, 481 (7th Cir. 2005). The sentencing judge has advised us that he would have imposed an identical sentence even under advisory guidelines. We invited both parties to file arguments concerning the reasonableness of the sentence imposed, but only the government has replied. We now affirm.

Lockard pleaded guilty to conspiring to manufacture and distribute methamphetamine, and the district court imposed a sentence of 240 months' imprisonment after calculating a guideline range of 235 to 293 months. In our

earlier decision we rejected Lockard's challenge to the calculation of the guideline range. Because the sentence falls within a properly calculated range, we presume it reasonable. *See United States v. Mykytiuk*, 415 F.3d 606, 608 (7th Cir. 2005). Having declined our invitation to comment, Lockard has not rebutted that presumption.

The district court rejected Lockard's primary argument in favor of a shorter sentence, namely, that a shorter prison term would prevent a disparity between his sentence and those imposed on his co-defendants. The court concluded that, for a list of reasons, Lockard was "in no way similarly situated with his co-conspirators." The district court was also unpersuaded that other factors Lockard raised, such as his employment history and family situation, entitled him to a sentence below the guideline range. Lockard has suggested no basis on which we might conclude that these determinations are unreasonable. We therefore AFFIRM the judgment of the district court.