

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

April 27, 2006

Before

Hon. MICHAEL S. KANNE, Circuit Judge

Hon. ILANA DIAMOND ROVNER, Circuit Judge

Hon. DIANE P. WOOD, Circuit Judge

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

No. 04-2618 v.

JONATHAN E. WALLACE,
Defendant-Appellant.

] Appeal from the United
] States District Court for
] the Western District of
] Wisconsin.
]
] No. 03 CR 157
]
] Barbara B. Crabb,
] Chief Judge.

Jonathan Wallace pleaded guilty to distributing cocaine and was sentenced to 120 months' imprisonment. He appealed to this court and subsequently filed a motion for limited remand, asserting that the only issue on appeal he intended to raise is whether the district court would have imposed the same sentence had it understood that the Guidelines were advisory. *See United States v. Booker*, 543 U.S. 220 (2005). Accordingly, this court ordered a limited remand under the terms set forth in *United States v. Paladino*, 401 F.3d 471, 483-84 (7th Cir. 2005).

The district court has replied that it would today impose the same sentence, knowing of the Guidelines' advisory status. The parties were offered the opportunity to respond before we finally resolved the appeal. The government responded that this court should affirm the district court's sentence, and Wallace chose not to respond.

Wallace's sentence is within the properly calculated guideline range and therefore presumptively reasonable. *See United States v. Mykytiuk*, 415 F.3d 606, 608 (7th Cir. 2005). Because the district court would have imposed the same sentence post-*Booker*, and because Wallace has offered nothing to rebut the presumption of reasonableness that attaches to his accurately calculated sentence, we conclude that Wallace's sentence was not the result of plain error. Accordingly, we AFFIRM the judgment of the district court.