

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 05-2723

UNITED STATES OF AMERICA

v.

TYE DAVIS

Appellant.

On Appeal from the United States District Court
for the Eastern District of Pennsylvania
(No. 04-cr-00040-1)
District Judge: Hon. Sylvia H. Rambo

Submitted Under Third Circuit LAR 34.1(a)
February 1, 2008

Before: RENDELL and CHAGARES, Circuit Judges, and POLLAK,* District Judge.

(Filed: March 6, 2008)

OPINION OF THE COURT

CHAGARES, Circuit Judge.

* Honorable Louis H. Pollak, Senior Judge of the United States District Court
for the Eastern District of Pennsylvania, sitting by designation.

Appellant Tye Davis appeals his sentence stemming from his participation in a drug-trafficking conspiracy. Whereas the Government concedes that the District Court wrongfully applied a mandatory Guideline regime in sentencing Tye Davis, we will remand for resentencing in accordance with United States v. Booker, 543 U.S. 220 (2005).²

² This Court notes that the defendant also contends that there is an outstanding motion to suppress still pending before the District Court.