

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 06-3136

UNITED STATES OF AMERICA

v.

RONALD CARSTARPHEN,

Appellant

Appeal from the United States District Court
for the Eastern District of Pennsylvania
(Crim. No. 05-cr-00467-02)
District Court: Hon. Mary A. McLaughlin

Submitted Pursuant to Third Circuit LAR 34.1 (a)
December 6, 2007

BEFORE: McKEE, CHAGARES and HARDIMAN, Circuit Judges

(Opinion Filed: February 12, 2008)

OPINION

McKee, Circuit Judge

Ronald Carstarphen appeals the sentence that was imposed following his guilty plea arguing that it was unreasonable. For the reasons that follow, we will affirm the sentence.

I.

Inasmuch as we write primarily for the parties, it is not necessary to recite the facts of this case.¹ Carstarphen's challenge to his sentence relies on *United States v. Booker*, 543 U.S. 220 (2005).

Carstarphen acknowledges that the district court appeared to comply with the methodology for imposing sentences after *Booker* that we prescribed in *United States v. Gunter*, 462 F.3d 237 (3d Cir. 2006). Appellant's Br. at 12-13. We agree. The court significantly reduced the sentence suggested by the advisory guideline range based upon the defendant's cooperation and the government's "5K1" motion. In imposing sentence the court explained that it was concerned with the defendant's criminal history "from the time [he was] very young just showing no consideration to what the law requires."² However, the court went beyond the mere numbers and appropriately considered his age at the time of his

¹ The government initially filed a motion to dismiss Carstarphen's appeal based upon the appellate waiver that was part of his plea agreement. We are now informed that the government has withdrawn that motion. See Appellee's Br. at 2.

² The defendant correctly argues that his prior convictions are already incorporated into the advisory guideline range the court used in calculating his sentence.

prior offenses. The court was also clearly concerned with the callous nature of the offense of conviction and the psychological trauma his actions inflicted on his victim.

The resulting sentence includes a 50% reduction for his cooperation, yet is still sufficiently incapacitive to address the need to protect the public and underscore the seriousness of this offense. It is thus clear from the sentence as well as the court's explanation at sentencing that the court properly considered the factors contained in 18 U.S.C. § 3553(a), and Carstarphen does not argue to the contrary except to argue that the resulting sentence was "unreasonable." The record is to the contrary.

Accordingly, we will affirm the judgment of sentence.