

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 06-14783
Non-Argument Calendar

FILED U.S. COURT OF APPEALS ELEVENTH CIRCUIT March 11, 2008 THOMAS K. KAHN CLERK

D. C. Docket No. 06-60135-CR-JAL

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

DEMUS PETERSON,

Defendant-Appellant.

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

(March 11, 2008)

**ON REMAND FROM THE SUPREME COURT
OF THE UNITED STATES**

Before WILSON, PRYOR and FAY, Circuit Judges.

PER CURIAM:

Demus Peterson stands convicted of possession with intent to distribute cocaine base, in violation of 21 U.S.C. § 841(a)(1). He appealed his sentence of 87 months incarceration and we affirmed. United States v. Peterson, 237 Fed. Appx. 439 (11th Cir. 2007). One of the arguments he presented challenged the Guideline disparity between powder cocaine and cocaine base. We rejected this argument.

The Supreme Court of the United States granted Peterson's petition for writ of certiorari, vacated our judgment and remanded the matter for further consideration in light of its opinion in the matter of Kimbrough v. United States, 128 S.Ct. 558 (2007). Consequently, we vacate the sentence imposed by the district court and remand the case for resentencing directing the district court to consider the recent opinion of the Supreme Court in Kimbrough.

Sentence VACATED and matter REMANDED for resentencing.