

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 07-13689
Non-Argument Calendar

FILED U.S. COURT OF APPEALS ELEVENTH CIRCUIT OCT 20, 2008 THOMAS K. KAHN CLERK

D. C. Docket No. 01-00892-CR-CMA

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

LONNIE PORTER,
a.k.a. Luqman Eliman,
a.k.a. Lugman Eliman,
a.k.a. Ludman Eliman,

Defendant-Appellant.

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

(October 20, 2008)

Before TJOFLAT, CARNES and BARKETT, Circuit Judges.

PER CURIAM:

In 2004, a jury found Lonnie Porter guilty of conspiracy to possess with intent to distribute 5 kilograms or more of cocaine and 50 grams or more of cocaine base, in violation of 21 U.S.C. §§ 846 and 841(a)(1) and (b)(1)(A) (Count 1); possession with intent to distribute 50 grams or more of cocaine base, in violation of 21 U.S.C. § 841(a)(1) and (b)(1)(A) and 18 U.S.C. § 2 (Count 5); and conspiracy to commit money laundering, in violation of 18 U.S.C. § 1956(h) and (a)(1)(B)(I) (Count 6). In 2007, we affirmed Porter's convictions, but remanded for re-sentencing in light of the Supreme Court's intervening decision in United States v. Booker, 543 U.S. 220, 125 S.Ct. 738, 160 L.Ed.2d 621 (2005). On remand, the court sentenced Porter to concurrent prison terms of 120 months. He now appeals, contending that these sentences are unreasonable because they are disparate from those imposed on his codefendants, exceeded his criminal responsibility, and did not adequately account for his post-sentencing rehabilitative conduct.

After Booker, the district courts are still bound by statutory minimum penalties. United States v. Castaing-Sosa, 530 F.3d 1358, 1362 (11th Cir. 2008) (“Booker's instruction to district courts to consider the factors in § 3553(a) in fashioning a reasonable sentence cannot be read to authorize using the § 3553(a) factors to impose a sentence below an applicable statutory mandatory minimum.”).

The district court sentenced Porter to the statutory mandatory minimum sentence, 120 months, for Counts 1 and 5 under 21 U.S.C. § 841(b)(1)(A). Because the court could not have imposed sentences of a lesser term for those offenses, his sentences could not be held to be unreasonable.

AFFIRMED.