

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 08-3043

September Term, 2009

FILED ON: DECEMBER 23, 2009

UNITED STATES OF AMERICA,
APPELLEE

v.

TALIB D. WATSON,
APPELLANT

Appeal from the United States District Court
for the District of Columbia
(No. 1:03-cr-00314-RJL-1)

Before: GINSBURG and TATEL, *Circuit Judges*, and RANDOLPH, *Senior Circuit Judge*

J U D G M E N T

This appeal was considered upon the briefs and the appendices filed by the parties. *See* Fed. R. App. P. 34(a)(2); D.C. Cir. Rule 34(j). It is

ORDERED AND ADJUDGED that the sentence imposed by the district court be affirmed.

The district court properly calculated the Guidelines range and considered the sentencing factors in 18 U.S.C. § 3553(a), and it did not abuse its discretion in imposing a final sentence of 108 months — within the statutory maximum sentence of 120 months — consecutive to the 15-year sentence imposed by the D.C. Superior Court. The court’s reliance upon the fact of the appellant’s prior convictions did not violate the appellant’s rights under the Fifth and Sixth Amendments to the Constitution of the United States. *See United States v. Booker*, 543 U.S. 220 (2005). The court did not consider any conduct for which the appellant had been acquitted, nor would such consideration have violated the appellant’s constitutional rights. *See United States v. Settles*, 530 F.3d 920 (D.C. Cir. 2008).

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or petition for rehearing en banc. *See* Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

PER CURIAM.

FOR THE COURT:
Mark J. Langer, Clerk

BY: /s/
Michael C. McGrail
Deputy Clerk