

UNPUBLISHED

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 04-4020**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

JAMES HOWARD HARRIS,

Defendant - Appellant.

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Appeal from the United States District Court for the Middle District of North Carolina, at Durham. William L. Osteen, District Judge. (CR-03-192)

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Submitted: October 7, 2004

Decided: October 13, 2004

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Before WIDENER, NIEMEYER, and WILLIAMS, Circuit Judges.

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Affirmed by unpublished per curiam opinion.

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Walter L. Jones, CLIFFORD, CLENDENIN, O'HALE & JONES, LLP, Greensboro, North Carolina, for Appellant. Anna Mills Wagoner, United States Attorney, Randall S. Galyon, Assistant United States Attorney, Greensboro, North Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

James Howard Harris appeals from the judgment of the district court convicting him of distribution of crack cocaine and possession of a firearm as a convicted felon and sentencing him to 151 months of imprisonment. Finding no error, we affirm.

As his sole claim of error on appeal, Harris argues that the district court's application of the federal sentencing guidelines violated his Sixth Amendment right to trial by jury. We have considered this argument and rejected it. See United States v. Hammoud, \_\_\_ F.3d \_\_\_, 2004 WL 2005622, at \*28 (4th Cir. Sept. 8, 2004) (No. 03-4253) (en banc); United States v. Hammoud, 378 F.3d 426 (4th Cir. 2004) (order), petition for cert. filed, \_\_\_ U.S.L.W. \_\_\_ (U.S. Aug. 6, 2004) (No. 04-193). Because Harris' sentence did not exceed the statutory maximum sentence authorized by law, see Apprendi v. New Jersey, 530 U.S. 466 (2000), we find no error.

Accordingly, we affirm the judgment of the district court. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED