

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-4316

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

WILLIE ELLIS GREEN,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. Terrence W. Boyle, District Judge. (5:04-cr-00360-BO)

Submitted: July 6, 2007

Decided: August 15, 2007

Before NIEMEYER, GREGORY, and SHEDD, Circuit Judges.

Dismissed in part; affirmed in part by unpublished per curiam opinion.

Deborrah L. Newton, Raleigh, North Carolina, for Appellant. George E. B. Holding, Acting United States Attorney, Anne M. Hayes, Christine Witcover Dean, Assistant United States Attorneys, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Willie Ellis Green appeals his convictions and 219-month sentence after his guilty plea to seven counts of interfering with interstate commerce by robbery, and aiding and abetting robbery, in violation of 18 U.S.C. §§ 1951, 2 (2000), and one count of brandishing a firearm, and aiding and abetting brandishing, in violation of 18 U.S.C. §§ 924(c), 2 (2000).

Green's first argument on appeal is that the district court violated his Sixth Amendment rights by enhancing his sentence based on facts he did not admit in his plea agreement. The plea agreement, however, included a waiver of Green's right to appeal the calculation of his advisory guideline range. We have reviewed the record and conclude that Green's argument falls within the scope of the waiver, and therefore dismiss this portion of his appeal. See United States v. Blick, 408 F.3d 162, 168-69 (4th Cir. 2005).

Next, Green argues that the Government breached the plea agreement by not fully advising the court of the extent of Green's cooperation, and by arguing for a brandishing enhancement on the basis that Green personally brandished a firearm. Because Green did not raise this objection at sentencing, our review is for plain error. See United States v. Olano, 507 U.S. 725, 732-37 (1993) (discussing standard). We find that the Government did relate to the court the nature of Green's cooperation, and that the plea

agreement did not bar the Government from presenting evidence of Green's conduct. Accordingly, the district court did not plainly err in not finding that the Government breached the plea agreement.

For these reasons, we affirm Green's convictions and dismiss the challenge to his sentence. 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.

DISMISSED IN PART;
AFFIRMED IN PART