

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 06-1746

United States of America,

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Appellee,

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v.

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Appeal from the United States

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District Court for the

David Brian Bern,

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Northern District of Iowa.

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Appellant.

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[UNPUBLISHED]

Submitted: March 19, 2007

Filed: March 20, 2007

Before RILEY, HANSEN, and MELLOY, Circuit Judges.

PER CURIAM.

David Bern appeals his sentence of 300 months in prison, a variance below the advisory Guidelines range of 360 months to life, imposed by the district court¹ following a remand for resentencing pursuant to United States v. Booker, 543 U.S. 220 (2005), see United States v. Bern, 156 Fed. Appx. 861 (8th Cir. 2005) (unpublished per curiam). For reversal, Bern argues that recent Supreme Court decisions warrant re-examination of whether the preponderance-of-the-evidence standard of proof is sufficient for purposes of sentencing enhancements. We disagree.

¹The Honorable Mark W. Bennett, United States District Judge for the Northern District of Iowa.

See United States v. Pirani, 406 F.3d 543, 551 n.4 (8th Cir.) (en banc) (Booker does not require sentencing judges to find sentence-enhancing facts beyond reasonable doubt), cert. denied, 126 S. Ct. 266 (2005).

Accordingly, we affirm the judgment of the district court.
