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Opinions of the United  
States Court of Appeals  
for the Third Circuit

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12-17-2007

## USA v. Stewart

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NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

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No. 05-5161

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UNITED STATES OF AMERICA,

v.

PATRICK STEWART,  
Appellant

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Appeal from the  
United States District Court for the  
District of New Jersey  
(D.C. No. 00-cr-00384-03)  
District Judge: Honorable Robert B. Kugler

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Submitted Under Third Circuit LAR 34.1(a)  
December 11, 2007

Before: SLOVITER, AMBRO, Circuit Judges, and RESTANI\*, Judge

(Filed: December 17, 2007)

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OPINION

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RESTANI, Judge.

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\*Honorable Jane A. Restani, Chief Judge of the United States Court of International Trade, sitting by designation.

This appeal challenges a sentence imposed after a remand for resentencing under United States v. Booker, 543 U.S. 220 (2005). We find the sentence imposed reasonable and will affirm the judgment of the District Court.

Defendant Patrick Stewart does not challenge the determination reached in calculating a recommended sentence under the United States Sentencing Guidelines. The calculated Guidelines range was 121 to 151 months. Rather, the claim is that in imposing the same 120-month total sentence that was imposed before remand, the District Court acted unreasonably because the Court failed to take into account the factors set forth in 18 U.S.C. § 3553(a). It is alleged that the District Court artificially recited the factors. Stewart notes his minimal participation in the drug distribution conspiracy that led to his conviction and his lack of a criminal history.

At sentencing, the District Court recited the appropriate standards and displayed an understanding of Stewart's role in the offenses of conviction. The Court also clearly recognized Stewart's lack of a prior criminal history and expressly took that into account in arriving at the sentence finally imposed.

The record reflects a careful consideration of the 18 U.S.C. § 3553(a) factors and we perceive no artificial application of the statute. Unlike some factual situations discussed in Stewart's brief, he is a fairly young man who had an active role in a large drug distribution conspiracy. The sentence imposed was not unreasonable and we will affirm.

