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USA v. Brown

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NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 07-1224

UNITED STATES OF AMERICA

v.

MILTON BROWN,
Appellant

Appeal from a Final Judgment of the United States District Court
for the District of New Jersey
(D.N.J. Criminal No. 06-cr-00350)
District Judge: Honorable William J. Martini

Submitted Under Third Circuit L.A.R. 34.1(a)
on February 8, 2008

Before: McKEE, AMBRO and ALDISERT, Circuit Judges

(Filed February 21, 2008)

OPINION

PER CURIAM

On appeal, Milton Brown challenges an enhancement of his sentence based on facts that were neither admitted by him nor found beyond a reasonable doubt. He admits

that the issue he raises – whether the District Court erred in failing to apply the proof beyond a reasonable doubt standard in determining the enhancement – was decided adversely to him in United States v. Grier, 475 F.3d 556 (3d Cir. 2007) (en banc). Although the issue has been decided by us, Brown seeks to preserve the issue in anticipation of review by the Supreme Court.

This panel does not have the authority to disturb the holding of an en banc decision of this Court. Accordingly, the judgment of the District Court will be affirmed.
