

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 05-4221

UNITED STATES OF AMERICA

v.

MAURICE LEWIS,

Appellant

Appeal from the United States District Court
for the Eastern District of Pennsylvania
(D.C. Criminal Action No. 01-cr-00231-1)
District Judge: Honorable Stewart Dalzell

Submitted Under Third Circuit LAR 34.1(a)
April 15, 2008

Before: AMBRO, FISHER, and MICHEL, * Circuit Judges

(filed April 18, 2008)

OPINION

*Honorable Paul R. Michel, Chief Judge, United States Court of Appeals for the Federal Circuit, sitting by designation.

AMBRO, Circuit Judge

Maurice Lewis pled guilty in 2003 to, among other crimes, conspiracy to distribute more than five kilograms of cocaine and possession of a firearm in furtherance of a drug trafficking crime. At that time, Lewis had committed two prior drug felonies. As a result, his crimes yielded a mandatory minimum sentence of life imprisonment on the conspiracy charge and of five years (to be served consecutively) on the firearm-possession charge. His sentence also included ten years on supervised release, a fine of \$25,000 (the bottom of the federal Sentencing Guidelines range), and a special assessment of \$1,000.

On appeal, Lewis contends that his sentence was “harsh and excessive.” We have jurisdiction under 28 U.S.C. § 1291 and review for reasonableness. *See United States v. Wise*, 515 F.3d 207, 218 (3d Cir. 2008).

Lewis makes two arguments. First, he argues that the District Court failed to consider the relevant sentencing factors under 18 U.S.C. § 3553(a), in violation of *United States v. Booker*, 543 U.S. 220 (2005). This argument fails because the District Court had no discretion to diverge from the statutory minimum sentences that applied. *See* 21 U.S.C. § 841(b)(1)(A); 18 U.S.C. § 924(c)(1)(A)(i). Second, Lewis claims that mandatory minimums themselves are unconstitutional because they limit trial courts’ discretion. In *Harris v. United States*, however, the Supreme Court rejected that very theory. 536 U.S. 545, 567 (2002) (“Within the range authorized by the jury’s verdict, however, the political system may channel judicial discretion . . . by requiring defendants

to serve minimum terms after judges make certain factual findings.”).

For these reasons, we affirm the sentence imposed by the District Court.