

UNITED STATES COURT OF APPEALS
TENTH CIRCUIT

July 17, 2008

Elisabeth A. Shumaker
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ANTHONY ROBERT KITTREDGE,

Defendant - Appellant.

No. 07-1028
(D.C. No. 04-CR-262-MSK)
(D. Colo.)

ORDER AND JUDGMENT*

Before **KELLY, MURPHY, and O'BRIEN**, Circuit Judges.**

Defendant-Appellant Anthony Robert Kittredge pleaded guilty to robbery affecting commerce, 18 U.S.C. § 1951(a), and brandishing a firearm during and in relation to the above, 18 U.S.C. § 924(c). He was sentenced to 24 months' imprisonment on the robbery affecting commerce count, and 84 months on the firearm count, to be served consecutively, and four years' supervised release

* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

** After examining the briefs and the appellate record, this three-judge panel has determined unanimously that oral argument would not be of material assistance in the determination of this appeal. See Fed. R. App. P. 34(a); 10th Cir. R. 34.1(G). The cause is therefore ordered submitted without oral argument.

thereafter. On direct appeal, we affirmed. United States v. Kittredge, 251 Fed. App'x 569 (10th Cir. 2007) (unpublished). The Supreme Court has now vacated our judgment and remanded to us for further consideration in light of Gall v. United States, 128 S. Ct. 586 (2007). See Kittredge v. United States, No. 07-8859, 2008 WL 177748 (May 12, 2008). Upon consideration thereof, we remand to the district court to vacate Mr. Kittredge's sentence and resentence him in light of Gall.

Entered for the Court

Paul J. Kelly, Jr.
Circuit Judge