

UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

1           At a stated term of the United States Court of Appeals  
2 for the Second Circuit, held at the Daniel Patrick Moynihan  
3 United States Courthouse, 500 Pearl Street, in the City of  
4 New York, on the 22<sup>nd</sup> day of September, two thousand and  
5 ten.

6  
7           PRESENT: ROSEMARY S. POOLER,  
8                    RICHARD C. WESLEY,  
9                    GERARD E. LYNCH,  
10                               *Circuit Judges.*

11  
12 \_\_\_\_\_  
13  
14           UNITED STATES OF AMERICA,  
15  
16                               *Appellee,*

17  
18                    -v.-

09-2970-cr

19  
20           RODNEY THOMAS,  
21  
22                               *Defendant-Appellant.*  
23 \_\_\_\_\_  
24  
25

1 FOR APPELLANT: JOYCE C. LONDON, Joyce C. London, P.C.  
2 (Michael A. Young, *of counsel*), New York,  
3 NY.  
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5 FOR APPELLEE: PREET BHARARA, United States Attorney for  
6 the Southern District of New York (Andrew  
7 L. Fish, Assistant United States  
8 Attorney, *of counsel*), New York, NY.  
9

10 Appeal from the United States District Court for the  
11 Southern District of New York (Stein, *J.*).  
12

13 **UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED**  
14 **AND DECREED** that the judgment of the District Court be  
15 **AFFIRMED.**

16 Appellant appeals from a judgment of the United States  
17 District Court for the Southern District of New York (Stein,  
18 *J.*), which sentenced Appellant after a remand by this Court  
19 to 140 months imprisonment and 5 years of supervised  
20 release. *See United States v. Thomas*, 273 Fed. Appx. 103  
21 (2d Cir. 2008). Appellant invokes this Court's jurisdiction  
22 pursuant to 28 U.S.C. § 1291, requesting that we set aside  
23 the sentence imposed by the District Court as unreasonable  
24 and remand the case for a new sentencing proceeding. We  
25 assume the parties' familiarity with the underlying facts,  
26 the procedural history, and the issues presented for review.

27 Appellant's sole argument in the instant appeal is that  
28 his sightless condition renders his sentence substantively

1 unreasonable. This argument is unpersuasive. At the new  
2 sentencing proceeding on remand below, pursuant to the  
3 principles enunciated in *United States v. Booker*, 543 U.S.  
4 220 (2005), Judge Stein explicitly and specifically  
5 considered Appellant's blindness, weighing it against, *inter*  
6 *alia*, Appellant's prominent role in the underlying criminal  
7 conspiracy. Balancing these factors, Judge Stein reduced  
8 the original sentence from 180 to 140 months.

9 In the absence of procedural error, this Court reviews  
10 sentences for substantive reasonableness under the standard  
11 of "abuse of discretion." *Gall v. United States*, 552 U.S.  
12 38, 51 (2007). By that standard, Judge Stein's decision to  
13 significantly lower the original sentence, albeit without  
14 reducing it to the mandatory minimum, cannot be said to be  
15 unreasonable.

16 For the foregoing reasons, the judgment of the District  
17 Court is hereby **AFFIRMED**.

18  
19 FOR THE COURT:  
20 Catherine O'Hagan Wolfe, Clerk  
21  
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