

CONN JUDGE
02-cr-213
Droney

06-3411-cr
U.S.A. v. Stewart

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SUMMARY ORDER

Rulings by summary order do not have precedential effect. Citation to summary orders filed after January 1, 2007, is permitted and is governed by this court's Local Rule 32.1 and Federal Rule of Appellate Procedure 32.1. In a brief or other paper in which a litigant cites a summary order, in each paragraph in which a citation appears, at least one citation must either be to the Federal Appendix or be accompanied by the notation: "(summary order)." A party citing a summary order must serve a copy of that summary order together with the paper in which the summary order is cited on any party not represented by counsel unless the summary order is available in an electronic database which is publicly accessible without payment of fee (such as the database available at <http://www.ca2.uscourts.gov/>). If no copy is served by reason of the availability of the order on such a database, the citation must include reference to that database and the docket number of the case in which the order was entered.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, in the City of New York, on the 21st day of December, Two thousand seven.

PRESENT:

JOHN M. WALKER, JR.,
JOSÉ A. CABRANES,
ROBERT D. SACK,

Circuit Judges.

-----x

UNITED STATES OF AMERICA,

Appellee,

-v.-

PHILLIP STEWART,

Defendant-Appellant.

-----x



Nos. 06-3411-cr

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SHAMBERS
CHRIS TOBIER F. DRONEY
U.S. DISTRICT JUDGE

APPEARING FOR APPELLANT:

JON L. SCHOENHORN, Jon L.
Schoenhorn & Assoc., LLC, Hartford,
CT.

APPEARING FOR APPELLEE:

MICHAEL J. GUSTAFSON, Assistant
United States Attorney (Kevin J.
O'Connor, United States Attorney,
William J. Nardini, Assistant United
States Attorney, *of counsel*), United
States Attorney's Office for the
District of Connecticut, New Haven,
CT.

Appeal from a judgment entered in the United States District Court for the District of Connecticut (Christopher F. Droney, *Judge*).

UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED,
AND DECREED that the sentence be hereby VACATED and the matter REMANDED for
resentencing in accordance with this Order.

We intimate no view on the reasonableness *vel non* of the sentence imposed by the District Court and remand this case for plenary reconsideration of the sentence imposed in accordance with the United State Supreme Court's recent decisions, *Kimbrough v United States*, 552 U.S. — (2007), and *Gall v United States*, 552 U.S. — (2007).

The mandate will issue forthwith.

FOR THE COURT,

Catherine O'Hagan Wolfe, Clerk

By 