

06-11429 BURGESS V. UNITED STATES

DECISION BELOW:478 F3d 658

LOWER COURT CASE NUMBER: 04-4997

QUESTIONS PRESENTED:

1. Whether the term “felony drug offense” as used in federal statute requiring imposition of enhanced mandatory minimum 20 years’ imprisonment when drug offender has “prior conviction for a felony drug offense” must be read in pari materia with federal statutes defining both “felony” and “felony drug offense”, so as to require imposition of minimum 20—year sentence only if prior drug conviction is both punishable by more than one year in prison and characterized as a felony by controlling law.
2. When the court finds that a criminal statute is ambiguous, must it then turn to rule of lenity to resolve ambiguity?

CERT. GRANTED 12/7/2007