

June 2, 2005

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 04-20580
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

EDDIE EVANS,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:03-CR-285-2

Before GARZA, DEMOSS, and CLEMENT, Circuit Judges.

PER CURIAM:*

Eddie Bryant Evans appeals his sentence after pleading guilty to possession with intent to distribute 100 grams or more of phencyclidine. In a plea agreement, Evans waived his appeal rights, unless there were an upward departure from the sentencing guidelines. The waiver was knowing and voluntary, and the sentence was within the guidelines range. See United States v. McKinney, ___F.3d___, No. 04-41223, 2005 WL 887153, *2-*3 & n.5 (5th Cir. Apr. 15, 2005). His appeal is DISMISSED.

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.