

October 20, 2004

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 04-40074
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JIMMY RAY EARL MERRIFIELD,

Defendant-Appellant.

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 4:03-CR-84-11

Before JOLLY, JONES, and WIENER, Circuit Judges.

PER CURIAM:*

Jimmy Ray Earl Merrifield appeals his guilty-plea conviction for possession of a firearm by a drug user and conspiracy to manufacture, distribute, or possess with the intent to manufacture, distribute, or dispense methamphetamine. He argues that the district court clearly erred in determining the drug quantity attributed to him for sentencing purposes.

At sentencing, the parties agreed that Merrifield should be held accountable for manufacturing approximately 30 ounces of

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

methamphetamine. This amount alone was sufficient to assign Merrifield a base offense level of 32. Thus, the district court did not clearly err in determining Merrifield's base offense level. See United States v. Edwards, 65 F.3d 430, 432 (5th Cir. 1995); United States v. Mergerson, 4 F.3d 337, 345 (5th Cir. 1993). The judgment of the district court is AFFIRMED.