

October 21, 2004

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 04-30302  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

CLEVELAND WELDON GOLDEN, JR.,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Middle District of Louisiana  
USDC No. 00-CR-53-1  
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Before JOLLY, JONES, and WIENER, Circuit Judges.

PER CURIAM:\*

Cleveland Golden appeals the 120-month sentence he received after he pleaded guilty to one count of armed bank robbery and to one count of carrying a firearm in relation to a crime of violence. Golden argues that the district court made a mistake when it used a total offense level 26 after granting the Government's motion to reduce his sentence pursuant to FED. R. CRIM. P. 35(b).

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Because the district court could on remand impose the same 120-month sentence under a reasonable application of the Guidelines, and because such a sentence would be in compliance with the terms of the plea agreement, Golden fails to meet his burden of showing that the district court's mistake constituted plain error. See United States v. Wheeler, 322 F.3d 823, 827-28 (5th Cir. 2003); United States v. Calverley, 37 F.3d 160, 162-64 (5th Cir. 1994)(en banc)(citing United States v. Olano, 507 U.S. 725, 731-37 (1993)).

AFFIRMED.