

November 17, 2004

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 04-40188  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JAIME BARRON,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 7:02-CR-470-2  
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Before WIENER, BENAVIDES, and STEWART, Circuit Judges.

PER CURIAM:\*

Jaime Barron appeals from his guilty-plea conviction for possession with intent to distribute more than 500 grams but less than five kilograms of cocaine. He argues that his three prior uncounseled misdemeanor convictions were ineligible for use in calculating his criminal history score because the waivers of his right to counsel in those cases were invalid. He asserts that, without the usage of these prior convictions, he should have been awarded a downward adjustment pursuant to U.S.S.G. § 5C1.2.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Barron has failed to meet his burden to show that those waivers were invalid. See Iowa v. Tovar, 124 S. Ct. 1379, 1390 (2004). The district court's use of Barron's prior convictions for purposes of determining his criminal history score was therefore proper. Because Barron's criminal history score exceeded one, he was ineligible for the U.S.S.G. § 5C1.2(a) adjustment. Accordingly, the district court's judgment is AFFIRMED.