

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-10096
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

SHELBY LEE DANIELS,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:92-CR-29-ALL-H

October 15, 2001

Before POLITZ, SMITH, and BARKSDALE, Circuit Judges.

PER CURIAM:*

Shelby Lee Daniels, federal prisoner #22481-077, appeals the trial court's denial of his Fed. R. Crim. P. 12(b)(2) motion to dismiss the indictment. This motion was filed after Daniels had noticed his appeal from the judgment of conviction. Daniels' timely notice of appeal divested the district court 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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.

jurisdiction to address the Fed. R. Crim. P. 12(b)(2) motion.¹ Accordingly, the district court's rejection of the motion to dismiss the indictment is AFFIRMED.

¹United States v. Hitchmon, 602 F.2d 689 (5th Cir. 1979)(en banc).