

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-10335
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

CARL DAVID CROWELL,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 2:00-CR-42-1

October 25, 2001

Before WIENER, BENAVIDES, and DENNIS, Circuit Judges.

PER CURIAM:*

Carl David Crowell appeals his sentence following his guilty plea conviction for possession with the intent to distribute more than 50 grams of methamphetamine, in violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(A). Crowell contends that the district court clearly erred in sentencing him based on the Presentence Report's (PSR) "actual" d-methamphetamine calculation. He argues that, because he was unable to find an independent chemist with the ability to test for drug purity, he could not rebut the PSR's

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

drug purity findings and was therefore denied due process. Crowell further asserts that the district court erred in admitting a Drug Enforcement Administration (DEA) lab report because 1) the report constituted unreliable hearsay evidence and 2) the admission of the report violated Crowell's right of confrontation/cross examination.

We have reviewed the record and briefs submitted by the parties and hold that the district court did not clearly err in admitting the DEA lab report and in basing Crowell's sentence on the PSR's "actual" d-methamphetamine calculation. See United States v. Alford, 142 F.3d 825, 831 (5th Cir. 1998); United States v. Davis, 76 F.3d 82, 84 (5th Cir. 1996); United States v. Vital, 68 F.3d 114, 120 (5th Cir. 1995).

AFFIRMED.