

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-60500
Summary Calendar

KENNETH IVEY ELASTER,

Petitioner,

versus

UNITED STATES PAROLE COMMISSION,

Respondent.

- - - - -
Petition for Review of an Order of the
United States Parole Commission
(18 USC 4106A)

- - - - -
March 18, 2002

Before KING, Chief Judge, and JOLLY and DeMOSS, Circuit Judges.

PER CURIAM:*

Kenneth Ivey Elaster, a federal prisoner transferred to the United States pursuant to the Treaty on the Execution of Penal Sentences (Treaty), November 25, 1976, United States--Mexico, 20 U.S.T. 7399; T.I.A.S. No. 8718, appeals from the United States Parole Commission's determination of his release date. Elaster argues that he was denied due process because the Parole Commission relied on inaccurate information in determining his sentence and did not afford him a hearing. He also contends that

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

he should have received a downward departure under U.S.S.G. §§ 5K2.10 and 5K2.12.

Elaster is essentially seeking to challenge the facts as found by the Mexican court of conviction. According to the terms of the transfer treaty, he is prohibited from doing so. See Treaty Art. II(6) and Art. VI; 18 U.S.C. § 4108(b)(1). Elaster's assertion that he is entitled to downward departures under the sentencing guidelines also lacks merit. See Navarette v. United States Parole Comm'n, 34 F.3d 316, 319 (5th Cir. 1994).

AFFIRMED.