

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 95-10736
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

RICHARD RUSSELL,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:94-CR-301-G
- - - - -

August 29, 1996

Before JOLLY, JONES and STEWART, Circuit Judges.

PER CURIAM:*

Richard Russell appeals his conviction for conspiracy to distribute methamphetamine and his sentence. The evidence at trial was not at variance with the superseding indictment. United States v. Thomas, 12 F.3d 1350, 1357 (5th Cir.), cert. denied, 114 S. Ct. 1861 (1994). The district court did not clearly err in basing his sentence on 128 pounds of

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

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methamphetamine. United States v. Mergerson, 4 F.3d 337, 345
(5th Cir. 1993), cert. denied, 114 S. Ct. 1310 (1994).

AFFIRMED.