

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 95-40911  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ROLANDO MOLINA,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. C-94-CR-199-4  
- - - - -

October 24, 1996

Before POLITZ, Chief Judge, and JOLLY and HIGGINBOTHAM, Circuit Judges.

PER CURIAM:\*

Rolando Molina appeals his 235-month sentence resulting from his conviction for conspiracy to possess with intent to distribute in excess of one kilogram of heroin, conspiracy to possess with intent to distribute in excess of 500 grams of cocaine, and use of a communication facility in the commission of a controlled-substance offense. Relying on *Bailey v. United*

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\* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

*States*, 116 S. Ct. 501 (1995), he argues that the district court erred in enhancing his offense level under U.S.S.G.

§ 2D1.1(b)(1). Molina's reliance on *Bailey* is misplaced; *Bailey* does not apply to § 2D1.1(b)(1). See *United States v. Castillo*, 77 F.3d 1480, 1499 n.34 (5th Cir.), *petition for cert. filed*, 65 U.S.L.W. 3086 (U.S. July 26, 1996) (No. 96-5357). The connection between the weapon and the cocaine was not clearly improbable; therefore, the findings of the district court were not clearly erroneous. See *United States v. Mitchell*, 31 F.3d 271, 277 (5th Cir.), *cert. denied*, 115 S. Ct. 455 (1994).

AFFIRMED.