UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-40040
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

GARY FRYE,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
(No. C-97-CR-165-6)

September 21, 1998

Before KING, BARKSDALE, and STEWART, Circuit Judges.

PER CURIAM:*

Gary Frye appeals his conviction for aiding and abetting possession with intent to distribute marijuana. He contends that his guilty plea was not made in compliance with FED. R. CRIM. P. 11 because he did not understand that he could be sentenced based on amounts of marijuana not alleged in the indictment but for which he also could be held accountable.

Although a district court is required to inform a defendant of a statutory minimum sentence for the offense, Rule 11(c) concerns only statutory penalties and does not require the district court to

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 R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

inform the defendant of his minimum sentence range under the guidelines. *See* ***United States v. Hoster***, 988 F.2d 1374, 1379 (5th Cir. 1993). Accordingly, the judgment is

AFFIRMED.