

March 6, 2006

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 05-40754
Summary Calendar

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

VICTORIA LOUISE MEHIS

Defendant - Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 1:04-CR-919-ALL

Before KING, WIENER and DeMOSS, Circuit Judges.

PER CURIAM:*

Victoria Louise Mehis appeals the sentence imposed following her guilty-plea conviction of possessing with the intent to distribute approximately 45.85 kilograms of cocaine. She argues that the district court erroneously calculated her criminal history category for purposes of applying the United States Sentencing Guidelines by considering a prior, uncounseled misdemeanor conviction of possessing marijuana when assessing her criminal history points. She contends that her waiver of the

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

right to counsel in that case was invalid because the district court failed to inform her that she was entitled to be represented during her guilty plea by court appointed counsel.

The records pertaining to Mehis's conviction of possessing marijuana indicate that Mehis knowingly and voluntarily waived her right to be represented by counsel when she entered her guilty plea. See Iowa v. Tovar, 541 U.S. 77, 88-94 (2004). Accordingly, the district court did not misapply the Sentencing Guidelines by using Mehis's prior conviction for purposes of determining her criminal history score.

The judgment of the district courts is AFFIRMED.