

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 00-20501  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JOHN ANTHONY TAYLOR,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. H-99-CR-553-2  
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January 23, 2001

Before DAVIS, JONES, and DeMOSS, Circuit Judges.

PER CURIAM:\*

John Anthony Taylor has appealed his convictions for bank robbery and aiding and abetting; using, carrying, and brandishing a firearm during a crime of violence; armed bank robbery; and using and carrying a firearm during a crime of violence. Taylor contends that his convictions should be reversed because the district court constructively amended the superseding indictment by submitting jury instructions that permitted the jury to convict him for an offense not charged in the indictment.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Because he did not object to the district court's special instructions, Taylor concedes that this issue should be reviewed for plain error. See United States v. Calverley, 37 F.3d 160, 162-64 (5th Cir. 1994) (en banc); see also United States v. Olano, 507 U.S. 725, 730-35 (1993). Although the district court's instruction arguably broadened the superseding indictment, we decline to exercise our discretion to correct the error. See United States v. Fletcher, 121 F.3d 187, 192-93 (5th Cir. 1997); United States v. Reyes, 102 F.3d 1361, 1364-66 (5th Cir. 1996).

AFFIRMED.