

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 01-41229  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

PATRICK ROSS, also known as Pat,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Eastern District of Texas  
USDC No. 4:01-CR-29-8  
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August 21, 2002

Before HIGGINBOTHAM, DAVIS, and PARKER, Circuit Judges.

PER CURIAM:\*

Patrick Neal Ross appeals his sentence following his guilty-plea conviction for conspiring to distribute or possess with intent to distribute cocaine base and for maintaining a place for the purpose of distributing cocaine base.

Ross argues that the district court erred in finding that he played a supervisory role in the offense and in applying a three-level increase pursuant to U.S.S.G. § 3B1.1(b). The evidence

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

showed that Ross directed the drug distribution of others at his residence. The district court's finding that he was a supervisor is not clearly erroneous. See United States v. Parker, 133 F.3d 322, 329 (5th Cir. 1998).

Ross argues that the district court erred in denying him a three-level reduction for his acceptance of responsibility, pursuant to U.S.S.G. § 3E1.1, based on the "mere fact" that he testified as a witness for the defense at the trial of a codefendant. Ross is not being forthcoming with this court. The district court found that he obstructed justice, pursuant to U.S.S.G. § 3C1.1, by testifying falsely at that trial. The district court's finding that Ross did not accept responsibility because he obstructed justice is not clearly erroneous. Ross has not shown that his case was an "extraordinary" one in which both §§ 3C1.1 and 3E1.1 could have been applied. See U.S.S.G. § 3E1.1, comment. (n.4).

AFFIRMED.