

June 4, 2003

IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

Charles R. Fulbruge III
Clerk

No. 02-10854
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

FERMIN DUARTE,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:01-CR-331-3-P

Before JONES, STEWART, and DENNIS, Circuit Judges.

PER CURIAM:*

Fermin Duarte appeals his sentence following his guilty-plea conviction for conspiring to possess amphetamine with intent to distribute. He contends that the district court erred in relying upon the presentence report (PSR) for the drug quantity because the PSR lacked sufficient indicia of reliability to support the calculations. He has not established that the PSR lacked sufficient indicia of reliability for sentencing purposes. Cf.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

United States v. Shacklett, 921 F.2d 580, 584 (5th Cir. 1991). Because Duarte did not dispute the findings of the PSR, he cannot show that the district court clearly erred in relying upon the information contained in the PSR. See United States v. Alford, 142 F.3d 825, 832 (5th Cir. 1998); United States v. Davis, 76 F.3d 82, 84 (5th Cir. 1996).

Duarte also contends that the district court erred in denying him a reduction pursuant to U.S.S.G. § 3B1.2 for his role as a minor or minimal participant in the conspiracy. He has not established that the district court committed clear error in denying the reduction. See United States v. Gallegos, 868 F.2d 711, 713 (5th Cir. 1989). The judgment of the district court is therefore AFFIRMED.