

June 3, 2003

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 02-10921
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

FERRELL DAMON SCOTT,

Defendant-

Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:00-CR-141-1-G

Before JONES, STEWART and DENNIS, Circuit Judges.

PER CURIAM:*

Ferrell Damon Scott pleaded guilty and was convicted of theft of interstate shipment and aiding and abetting in violation of 18 U.S.C. §§ 2, 659. He appeals the district court's denial of his motions to dismiss his indictment for violation of the Speedy Trial Act and impermissible post-indictment prosecutorial delay in violation of the Sixth Amendment.

The district court denied the motions as untimely pursuant to FED. R. CRIM. P. 12(c) and (f) and alternatively on the merits. Scott does not address or contest the district court's procedural

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

ruling in his brief. This court “will not raise and discuss legal issues that [Scott] has failed to assert.” Brinkmann v. Dallas County Deputy Sheriff Abner, 813 F.2d 744, 748 (5th Cir. 1987). Therefore, because Scott has not addressed the procedural issue, he has thus abandoned this issue on appeal. E.g., Yohey v. Collins, 985 F.2d 222, 224-25 (5th Cir. 1993). Additionally, because the procedural ruling presents an independent, unchallenged basis for affirming the district court’s decision, we affirm the dismissal on the procedural ground noted by the district court and need not analyze the underlying merits of Scott’s motions. Cf. Walker v. Thompson, 214 F.3d 615, 624-25 (5th Cir. 2000) (district court dismissed claim on procedural ground and on merits; although procedural ruling was in error, failure to brief district court’s decision regarding merits constituted abandonment on appeal, and dismissal was affirmed).

The judgment of the district court is therefore AFFIRMED.