

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 02-20463
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

LONNIE LEE CLAY,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. H-01-CR-668-1

January 22, 2003

Before DAVIS, WIENER, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:*

Lonnie Lee Clay appeals his guilty-plea conviction for bank robbery. Clay asserts, and the Government concedes, that the written judgment, which states that Clay's federal sentence is to run consecutively with his undischarged state sentence, conflicts with the district court's oral pronouncement at sentencing that the federal sentence should run partially concurrent with Clay's undischarged state sentence.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

An oral pronouncement of judgment will control over the written judgment if the two conflict. United States v. Martinez, 250 F.3d 941, 942 (5th Cir. 2001). Accordingly, the judgment is VACATED and the case is REMANDED for the limited purpose of allowing the district court to amend its written judgment to conform to its oral judgment at sentencing. See Martinez, 250 F.3d at 942.

JUDGMENT VACATED AND CASE REMANDED FOR AMENDMENT OF JUDGMENT.