

April 3, 2003

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 02-30830  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JEFFREY RAY STOVALL,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Western District of Louisiana  
USDC No. 00-CR-20049-10  
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Before HIGGINBOTHAM, SMITH, and CLEMENT, Circuit Judges.

PER CURIAM:\*

Jeffrey Ray Stovall ("Stovall") appeals his sentence following his guilty plea conviction of conspiracy to distribute cocaine base. Stovall raises two issues on appeal. First, Stovall argues that the district court erred in finding by a preponderance of the evidence that Stovall distributed 460 grams of crack cocaine in calculating Stovall's "relevant conduct" for sentencing purposes. The district court did not clearly err in finding that the testimony of Government witnesses at the

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

sentencing hearing showed by a preponderance of the evidence that Stovall distributed 460 grams of crack in addition to the 22 grams to which he pleaded guilty. See United States v. Medina, 161 F.3d 867, 876 (5th Cir. 1998).

Second, Stovall contends that pursuant to Apprendi v. New Jersey, 530 U.S. 466 (2000), the district court should be required to submit to a jury the issue of the quantity of cocaine. The district court was not required to submit the issue of the quantity of cocaine to a jury, as only facts that increase the penalty for a crime beyond the statutory maximum must be submitted to a jury and proven beyond a reasonable doubt. See Apprendi, 530 U.S. at 489; United States v. Keith, 230 F.3d 784, 787 (5th Cir. 2000).

AFFIRMED.