

April 23, 2003

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 02-41205
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

HOWARD LEE CHANEY, JR.,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. V-01-CR-2-ALL

Before BARKSDALE, DEMOSS, and BENAVIDES, Circuit Judges.

PER CURIAM:*

Howard Lee Chaney, Jr., appeals his sentence for conspiracy to distribute cocaine base in violation of 21 U.S.C. § 841(a)(1), (b)(1)(A) and 21 U.S.C. § 846. Chaney argues that the district court clearly erred in finding that he was accountable for 1400 grams of cocaine base.

A district court enjoys broad discretion in deciding what testimony to credit for purposes of making sentencing findings.

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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. Cooper, 274 F.3d 230, 240 (5th Cir. 2001).

Since the district court held Chaney responsible only for drug quantities directly attributable to him, it was not required to find that the re-sale of the cocaine base by his associates was foreseeable. The district court was not required to limit Chaney's accountability to those drugs that had been re-sold.

The district court's finding that Chaney was responsible for 1400 grams of crack cocaine was not clearly erroneous. United States v. Ramirez, 271 F.3d 611, 612 (5th Cir. 2001).

AFFIRMED.