

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 02-50355
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

RICK SHOELS,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. SA-00-CR-625-1

December 11, 2002

Before JOLLY, DAVIS, and JONES, Circuit Judges.

PER CURIAM:*

Rick Shoels appeals his conviction, following a jury trial, of possession of 50 grams or more of cocaine base with intent to distribute, and aiding and abetting, in violation of 21 U.S.C. § 841(a)(1) and 18 U.S.C. § 2.

Shoels contends that the district court erred when it overruled his challenge to the court's instruction that the jury was not required to find that he aided and abetted the offense in order to find him guilty as a principal. The claim is meritless. Aiding and abetting is not a separate crime, but an alternative charge in every indictment, whether explicit or implicit.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

See United States v. Neal, 951 F.2d 630, 633 (5th Cir. 1992);

United States v. Pearson, 667 F.2d 12, 13-14 (5th Cir. 1980).

The district court properly charged the jury both as a principal and as an aider-and-abettor.

Through a letter mailed to the clerk of court after appointed counsel had filed his appellate brief, Shoels has moved for the substitution of counsel, to strike the brief filed by counsel, and to proceed pro se on appeal if the court will not appoint a new attorney. The motion is DENIED. See United States v. Wagner, 158 F.3d 901, 902-03 (5th Cir. 1998); FIFTH CIRCUIT PLAN UNDER THE CJA, § 3.

AFFIRMED; MOTION DENIED.