

May 21, 2004

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-41481
Summary Calendar

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

MICHAEL WAYNE MAJOR

Defendant - Appellant

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 3:93-CR-9-1

Before KING, Chief Judge, and DeMOSS and STEWART, Circuit Judges.

PER CURIAM:*

Michael Wayne Major (Major) appeals the sentence imposed after his guilty-plea conviction for conspiring to cultivate more than 3000 marijuana plants. Wayne contends that the district court improperly increased his sentencing guidelines offense level for possessing a dangerous weapon in connection with the crime. He also contends that the court should have given him an offense level reduction for acceptance of responsibility, despite

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

the fact that he was a fugitive for nine years after he was first arrested.

Even were Major's claims meritorious, which they are not under the proper "clear error" standard of review, any error would be harmless. Major was sentenced to the mandatory minimum sentence of ten years' imprisonment and five years' supervised release under 21 U.S.C. § 841(b)(1)(A) & (A)(vii). Even if his guidelines range was reduced to less than ten years, Major's sentence would not be affected. See U.S.S.G. § 5G1.1(b) & (c); see also Williams v. United States, 503 U.S. 193, 203 (1992) (harmless error); United States v. Tello, 9 F.3d 1119, 1131 (5th Cir. 1993). The judgment of the district court is

AFFIRMED.