

December 9, 2003

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-50840
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

QUINTA SIMS,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. A-99-CR-286-4

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

PER CURIAM:*

Quinta Sims, Federal Prisoner No. 04029-180, moves this court for appointment of appellate counsel. The motion is denied. Sims has appealed the district court's denial of his 18 U.S.C. § 3582(c)(2) motion to reduce his sentence based on Amendments 591 and 599 to the United States Sentencing Guidelines. Sims pleaded guilty to possession with intent to distribute 50 grams or more of cocaine base in violation of 21 U.S.C. § 841(a)(1) and 18 U.S.C. § 2 (Count I) and possession of

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

a firearm by an unlawful user of a controlled substance in violation of 18 U.S.C. §§ 922(g)(3) and 2 (Count II).

Sims argues that Amendment 591 dictates that he must be resentenced based on only the quantity of drugs that he personally possessed, rather than on the entire quantity of drugs that the district court found relevant to his offense. Sims has misread Amendment 591. Amendment 591 applies to the determination of the appropriate Chapter Two offense guideline section, and it is irrelevant to the determination of base (or specific) offense levels within the applicable offense guideline section or to any consideration of relevant conduct. Sims further argues that, because he pleaded guilty to a firearms offense in Count II, Amendment 599 entitles him to be resentenced for Count I without an increase in offense level based on his possession of a weapon. Amendment 599 to U.S.S.G. § 2K2.4 applies to convictions under 18 U.S.C. § 844(h) and 18 U.S.C. §§ 924(c) and 929(a). As Sims pleaded guilty to violating 18 U.S.C. §§ 922(g)(3), Amendment 599 is irrelevant to his sentence.

AFFIRMED; MOTION FOR APPOINTMENT OF COUNSEL DENIED.