

November 9, 2004

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 04-30289
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ALDORE R. LANDRY,

Defendant-Appellant.

Appeal from the United States District Court
for the Middle District of Louisiana
USDC No. 03-CR-97-ALL-M3

Before JONES, BARKSDALE and PRADO, Circuit Judges.

PER CURIAM:*

Aldore R. Landry was convicted following a guilty plea of possession with intent to distribute cocaine in violation of 21 U.S.C. § 841(a)(1) and of possession of a firearm by a convicted felon in violation of 18 U.S.C. 922(g)(1) and sentenced to 71-month concurrent terms of imprisonment. As the Government argues, Landry executed a knowing and voluntary waiver of his right to appeal his sentence, with limited exceptions, and thus is barred from challenging his sentence on appeal. See United

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

States v. Robinson, 187 F.3d 516, 517 (5th Cir. 1999).

Accordingly, we do not address Landry's waived sentencing guidelines argument. See United States v. Portillo, 18 F.3d 290, 292-93 (5th Cir. 1994).

Landry appeals the district court's denial for lack of jurisdiction of his motion to reconsider sentence. The district court may modify the imposed term of imprisonment under limited circumstances. 18 U.S.C. § 3582(c). Landry argues that his motion to reconsider sentence was not filed under the authority of FED. R. CRIM. P. 35 but, rather, was a "common law" motion to reconsider over which the district court had jurisdiction. The district court did not err in denying Landry's motion to reconsider sentence. See United States v. Early, 27 F.3d 140, 141-42 (5th Cir. 1994).

Accordingly, the district court's order denying Landry's motion to reconsider sentence is AFFIRMED.