

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

September 25, 2008

Charles R. Fulbruge III
Clerk

No. 05-30604
Summary Calendar

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

LEVI MELONE, also known as Bubba Chicken

Defendant-Appellant

Appeal from the United States District Court
for the Eastern District of Louisiana
USDC No. 2:03-CR-355-7

Before GARZA, DeMOSS, and CLEMENT, Circuit Judges.

PER CURIAM:*

Levi Melone appeals the sentence imposed following his conviction for conspiracy to distribute and possess with the intent to distribute five kilograms or more of cocaine hydrochloride and 50 grams or more of cocaine base and use of a communication facility in a drug trafficking offense. Melone argues that the district court erred by applying 21 U.S.C. § 851(e) to hold that his denial of a prior conviction was time barred.

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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 evidence before the district court established the fact of Melone's prior conviction. Melone offered no argument or evidence before the district court, nor has he offered any before this court, that calls into question his identity as the offender named in the prior conviction. Accordingly, he has not shown error in the application of the enhancement, and his conviction is affirmed. See *United States v. Majors*, 328 F.3d 791, 796-97 (5th Cir. 2003); *United States v. Garcia*, 954 F.2d 273, 277-78 (5th Cir. 1992).

AFFIRMED.