

January 30, 2007

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 06-20080
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

FEDERICO DELEON,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:05-CR-145-2

Before DAVIS, BARKSDALE and BENAVIDES, Circuit Judges.

PER CURIAM:*

Federico DeLeon appeals the 120-month sentence he received for conspiracy to possess cocaine with the intent to distribute and for aiding and abetting the possession of cocaine with the intent to distribute under 21 U.S.C. §§ 841, 846 and 18 U.S.C. § 2. The district court was required to impose a minimum sentence of 120 months under § 841(b)(1)(A)(ii). DeLeon argues that the district erred in calculating a guidelines sentencing range of 87 to 108 months in prison. As counsel for DeLeon conceded in the district court, this issue is rendered moot by

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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 applicable statutory minimum. See United States v. Mankins,
135 F.3d 946, 950 (5th Cir. 1998). Accordingly, the appeal is
DISMISSED AS FRIVOLOUS. 5TH CIR. R. 42.2.