

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

October 24, 2007

No. 07-10290
Conference Calendar

Charles R. Fulbruge III
Clerk

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

JIMMY LEE PRUETT

Defendant-Appellant

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:05-CR-113-2

Before JOLLY, BENAVIDES, and STEWART, Circuit Judges.

PER CURIAM:*

Jimmy Lee Pruett pleaded guilty to possession of a controlled substance with intent to distribute and was sentenced to 188 months of imprisonment and four years of supervised release.

Pruett argues that sentencing guidelines enhancements for possession of a firearm and for the reckless endangerment of another during flight should not have been applied in the calculation of his sentence. The Government seeks to enforce Pruett's waiver of his right to appeal his sentence.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Our review of the record shows that Pruett's appeal waiver was knowing and voluntary and that, under the plain language of the plea agreement, the waiver applies to the circumstances at hand. See *United States v. Burns*, 433 F.3d 442, 445-46 (5th Cir. 2005); *United States v. McKinney*, 406 F.3d 744, 746 (5th Cir. 2005). Pruett's argument that his claims should be reviewed for a manifest miscarriage of justice in spite of the appeal waiver lacks merit. Accordingly, Pruett's appeal waiver bars review of the issues he seeks to raise on appeal.

The judgment of the district court is AFFIRMED, the Government's motion for summary affirmance is GRANTED, and the Government's motions to dismiss and for an extension of time are DENIED.