

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

April 4, 2008

No. 07-20142
Summary Calendar

Charles R. Fulbruge III
Clerk

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

LEWIS GILMORE HURST

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:04-CR-355-ALL

Before REAVLEY, BENAVIDES, and CLEMENT, Circuit Judges.

PER CURIAM:*

Lewis Gilmore Hurst has appealed his conviction of three counts of bank robbery by force, violence, and intimidation (counts 1, 4, and 7), three counts of using, carrying, and brandishing a firearm during the commission of a crime of violence (counts 2, 5, and 8), and three counts of being a felon in possession of a firearm (counts 3, 6, and 9). After the district court refused to permit Hurst to present an insanity defense, Hurst maintained his not guilty plea, stipulated to

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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 facts alleged by the Government in the indictment, and was convicted by the district court following a bench trial.

Hurst contends that his inculpatory stipulation was tantamount to a guilty plea and should have been accompanied by the protections of FED. R. CRIM. P. 11. Because this issue was not asserted below, our review is for plain error. See *United States v. Castro-Trevino*, 464 F.3d 536, 541 (5th Cir. 2006). The issue raised by Hurst was rejected by the court in *United States v. Robertson*, 698 F.2d 703, 704-10 (5th Cir. 1983). Hurst has not shown that Robertson should be distinguished or that his substantial rights were affected by any error in accepting his inculpatory stipulation. See *Castro-Trevino*, 464 F.3d at 541. The district court's judgment is AFFIRMED.