

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 13-50589
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

May 19, 2014

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

MICHAEL RENE GARZA,

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Texas
USDC No. 6:13-CR-4-1

Before JOLLY, SMITH, and CLEMENT, Circuit Judges.

PER CURIAM:*

Michael Rene Garza appeals his 60-month sentence following his guilty plea conviction of possession with intent to distribute methamphetamine. Garza argues that the district court's drug quantity determination was clearly erroneous because it was based on unreliable statements made by a confidential informant.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

No. 13-50589

A district court's drug quantity determination is a factual finding reviewed for clear error. *See United States v. Betancourt*, 422 F.3d 240, 246 (5th Cir. 2005). “[A] district court may adopt the facts contained in a [presentence report] without further inquiry if those facts have an adequate evidentiary basis with sufficient indicia of reliability and the defendant does not present rebuttal evidence or otherwise demonstrate that the information in the [presentence report] is unreliable.” *United States v. Cabrera*, 288 F.3d 163, 173-74 (5th Cir. 2002). The defendant has the burden of presenting rebuttal evidence to demonstrate that the information in the PSR is inaccurate, unreliable, or materially untrue. *United States v. Washington*, 480 F.3d 309, 320 (5th Cir. 2007).

The district court did not clearly err in determining drug quantity. The PSR detailed the amounts of methamphetamine that the CI bought from Garza during controlled buys as well as other amounts of methamphetamine that the CI observed in Garza's possession during the controlled buys. Further, Officer Amanda Locklear's testimony provided details regarding the CI's prior experience with methamphetamine, the controlled buys, and other witness statements regarding the amount of methamphetamine Garza possessed. Although Garza objected to the drug quantity determination in the PSR, he did not offer any evidence to rebut either the PSR or Locklear's testimony.

AFFIRMED.