

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

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No. 15-11205  
Summary Calendar

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United States Court of Appeals  
Fifth Circuit

**FILED**

November 15, 2016

Lyle W. Cayce  
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

GARY HOWARD,

Defendant-Appellant

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 4:15-CR-153-9

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Before KING, DENNIS, COSTA, Circuit Judges.

PER CURIAM:\*

Gary Howard appeals his 240-month, below-guidelines prison sentence for conspiring to possess intending to distribute a controlled substance. Specifically, he challenges sentencing enhancements he received under U.S.S.G. § 2D1.1(b)(12) for maintaining a premises to distribute drugs and under U.S.S.G. § 3A1.2(c)(1) for assaulting a law enforcement officer.

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\* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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. 15-11205

After overruling Howard's objections to the guidelines calculations in the presentence report, the district court explained that it would impose the same sentence even if those rulings were incorrect. It reasoned that a 240-month sentence was warranted based on the quantity of drugs involved in the offense and Howard's other criminal conduct, including his role in running credit card scams. Accordingly, any error in applying the Guidelines would be harmless. *See United States v. Gutierrez-Mendez*, 752 F.3d 418, 430 (5th Cir. 2014); *United States v. Ibarra-Luna*, 628 F.3d 712, 714 (5th Cir. 2010).

AFFIRMED.