

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-1075
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JAMES DAVID DANIEL,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:93-CV-157-E

- - - - -
June 24, 1993

Before POLITZ, Chief Judge, WIENER, and DeMOSS, Circuit Judges.

PER CURIAM:*

By this 28 U.S.C. § 2255 action, James David Daniel challenges the imposition of the term of special parole pursuant to a conviction for aiding and abetting and distribution of amphetamine. Daniel's argument is premised on the fact that special parole is inapplicable to an aiding and abetting conviction. Daniel was found guilty of a 1986 distribution offense.

Prior to 1984, section 841(b) provided for the imposition of a special parole term on a convicted drug distributor. See United

* Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

States v. Byrd, 837 F.2d 179, 180 (5th Cir. 1988). On October 12, 1984, Congress amended the penalty provisions of § 841(b), deleting the provision for imposition of special parole terms. The effective date for the amendment was November 1, 1987, making the amendment inapplicable to this case.

In addition, Daniel asserts a failure to comply with Rule 11 argument. Daniel did not plead guilty but was found guilty by a jury. Therefore, Rule 11 is not a concern. United States v. Hekimain, 975 F.2d 1098, 1100 (5th Cir. 1992).

Accordingly, the trial court did not err in imposing a special parole term nor violate Rule 11; therefore, the judgment of the district court is AFFIRMED.