

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-2357
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

BRIAN KEITH GARRETT,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Southern District of Texas
USDC No. CR-H-92-292
- - - - -
(March 25, 1994)

Before KING, DAVIS, and DeMOSS, Circuit Judges.

PER CURIAM:*

Brian Keith Garrett has not demonstrated that the district court clearly erred by holding him responsible for a 17-ounce purchase of cocaine by made by co-conspirator Robert McGowen. United States v. Mergerson, 4 F.3d 337, 346 (5th Cir. 1993). As Garrett offered no evidence at sentencing that the 17-ounce purchase was not relevant conduct, the district court was free to adopt the Presentence Report's conclusion that the purchase was made in furtherance of the conspiracy without further inquiry.

* 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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

United States v. Rogers, 1 F.3d 341, 345 (5th Cir. 1993).

Garrett's argument that the Government failed to establish that his prior crack cocaine activities as part of the Frank Hightower drug organization were part of the offense of conviction is irrelevant because these activities were not considered in the determination that the conspiracy for which Garrett was convicted involved at least twenty ounces of crack cocaine.

As Garrett has admitted that he supplied at least nine street-level dealers with crack cocaine, the district court's determination that Garrett's offense level should be increased because he acted as a manager or a supervisor was not clearly erroneous. United States v. Pofahl, 990 F.2d 1456, 1480 (5th Cir.), cert. denied, ___ U.S. ___, 114 S.Ct. 266 (1993).

AFFIRMED.