

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-2507
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

CHUKWUDI A. UCHIME,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Southern District of Texas
USDC No. CR-H-92-166
- - - - -
(March 23, 1994)

Before KING, DAVIS, and DeMOSS, Circuit Judges.

PER CURIAM:*

Chukwudi A. Uchime argues that the Government violated the plea agreement by failing to file a U.S.S.G. §5K1.1 motion for a downward departure for Uchime's substantial assistance.

Section 5K1.1 provides for downward departure by the district court upon the Government's motion, based, inter alia, on the "truthfulness, completeness, and reliability of any information or testimony provided by the defendant" and "the

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

nature and extent of the defendant's assistance." § 5K1.1(a)(2-3).

There was no reason for the Government to move for a downward departure under § 5K1.1. See United States v. Watson, 988 F.2d 544, 548-49 (5th Cir. 1993), cert. denied, 114 S.Ct. 698 (1994). The district found that Uchime's version of the facts was not credible. The district court stated that it was "satisfied that Mr. Uchime's cooperation was neither truthful, complete, nor accurate; and that he violated Paragraph 1C of the [plea] agreement." Uchime does not challenge these factual findings on appeal. Therefore, the condition of the plea agreement that would have triggered the Government's obligation to consider a § 5K1.1 motion was never met.

AFFIRMED.