

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-4002

Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

CHARLES STEPHEN SIMMONS,

Defendant-Appellant.

Appeal from the United States District Court
for the Eastern District of Texas
(1:92 CR 007 (9))

(September 7, 1993)

Before KING, HIGGINBOTHAM and BARKSDALE, Circuit Judges.

PER CURIAM:*

Charles Stephen Simmons pleaded guilty to laundering money in violation of 18 U.S.C. § 1956(a)(1)(B), and the district court sentenced him to one hundred twenty months imprisonment to be followed by three years of supervised release. The district court also assessed a \$100,000 fine against Simmons and ordered him to pay a \$50 mandatory assessment. Simmons now appeals his

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 Pursuant to that Rule, the court has determined that this opinion should not be published.

sentence, raising three complaints. Because we conclude that Simmons has waived his right to appeal from both his conviction and sentence, we dismiss his appeal.

In United States v. Melancon, 972 F.2d 566, 568 (5th Cir. 1992), we held that a defendant may, as part of a valid plea agreement, waive his statutory right to appeal from his sentence. To be valid, however, the waiver must be informed and voluntary. Id. at 567. Before accepting a plea bargain with such a waiver, the district court must "insure that the defendant fully understands her right to appeal and the consequences of waiving that right." United States v. Baty, 980 F.2d 977, 979 (5th Cir. 1992).

The plea bargain agreement between Simmons and the Government demonstrates that Simmons knowingly and voluntarily waived his right to appeal his sentence, as well as his conviction. In this written agreement with the Government, Simmons expressly "waive[d] his right to appeal his conviction and sentence." Moreover, according to the plea agreement, Simmons accomplished this waiver "freely and voluntarily and upon advice of counsel."

Simmons's understanding of this waiver was confirmed several times by the district court at the guilty plea hearing. The district court asked Simmons whether he understood that he was waiving his right to appeal his sentence, and Simmons replied that he did. Also, when the district court asked Simmons whether he was waiving both his "right of appeal to either the finding of

guilty or to the sentence imposed," Simmons said that he was. Finally, the district court asked Simmons, "Do you also understand that, had you not waived it, that under some circumstances the government or you might have the right to appeal any sentence that I might impose?" Simmons responded that he did understand.

As the above discussion shows, Simmons knowingly and voluntarily waived his right to appeal his sentence and conviction. The language of the plea bargain agreement between the Government and Simmons is clear in this regard, and the district court did all that could reasonably be expected to insure that Simmons fully understood his right to appeal and the consequences of waiving that right. That the district court did not inform Simmons of his "specific statutory right to challenge the imposition of an illegal sentence as authorized by 18 U.S.C. § 3742(a)" does not, contrary to Simmons's assertions, render the waiver involuntary or uninformed.

We are satisfied that Simmons validly waived his right to appeal his conviction and sentence under Melancon and Baty. His appeal is therefore DISMISSED.