

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-8413
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

MARVIN CHARLES WILLIAMS,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Western District of Texas
USDC No. W-93-CR-11 (2)
- - - - -
(July 20, 1994)

Before POLITZ, Chief Judge, and JOLLY and DAVIS, Circuit Judges.

PER CURIAM:*

Marvin Charles Williams argues that he did not waive his right to appeal his sentence. The record reflects that Williams entered a knowing and voluntary waiver. Williams raised no questions regarding the waiver-of-appeal provision. At sentencing, Williams attacked the constitutionality of the Sentencing Guidelines provision concerning career offenders. The district court responded that Williams could raise that issue on

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

appeal with this Court.** Nevertheless, the district court later noted that Williams had waived his right to appeal the sentence.

A defendant may waive his right to appeal if his waiver is knowing and voluntary. United States v. Melancon, 972 F.2d 566, 567-68 (5th Cir. 1992). Additionally, "when the record of the Rule 11 hearing clearly indicates that a defendant has read and understands his plea agreement, and that he raised no question regarding a waiver-of-appeal provision, the defendant will be held to the bargain to which he agreed . . ." United States v. Portillo, 18 F.3d 290, 293 (5th Cir. 1994). This appeal is DISMISSED.

Counsel is cautioned against pursuing an appeal of a sentence when the plea agreement specifically waives the right to appeal the sentence imposed.

** Williams has abandoned this issue on appeal.