

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

---

No. 94-30305  
Conference Calendar

---

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ALVIN REECE,

Defendant-Appellant.

- - - - -  
Appeal from the United States District Court  
for the Eastern District of Louisiana  
USDC No. CR-39-348-F  
- - - - -

(January 27, 1995)

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

PER CURIAM:\*

Alvin Reece, convicted by guilty plea of possession with intent to distribute cocaine, contends that his due process rights were violated because a confidential informant determined the one-kilogram drug amount upon which Reece was sentenced.

A sentence imposed by the trial court will be upheld on review so long as the sentence was determined by a proper application of the guidelines to facts that are not clearly erroneous. United States v. Buenrostro, 868 F.2d 135, 136-37

---

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

(5th Cir. 1989), cert. denied, 495 U.S. 923 (1990). The finding will not be clearly erroneous where it is plausible in light of the record as a whole. United States v. Sanders, 942 F.2d 894, 897 (5th Cir. 1991). If the defendant contests facts or conclusions set forth in the PSR, the district court may adopt the PSR only so long as the record reflects that the court fairly considered the relevant factors in dispute when it made its decision. United States v. Sherbak, 950 F.2d 1095, 1099 (5th Cir. 1992); see Fed. R. Crim. P. 32(c)(3)(D). A district court's findings on the quantity of drugs on which a sentence should be based are factual findings which are reviewed for clear error. United States v. Rivera, 898 F.2d 442, 445 (5th Cir. 1990).

To the extent that Reece's confusing arguments can be deciphered, they are meritless. The one-kilogram drug amount upon which Reece's sentence was based was not clearly erroneous. The PSR provided that Reece expressed an interest to the confidential informant in obtaining a kilogram source for cocaine. Reece concedes that a search of his vehicle revealed one kilogram of cocaine as well as \$10,000 in currency. Reversal of a sentence will be justified only if, in spite of the evidence showing a certain quantity of drugs, this Court is still "left with the definite and firm conviction that a mistake has been committed." United States v. Mitchell, 964 F.2d 454, 457-58 (5th Cir. 1992) (citation omitted). The district court did not commit such a mistake.

AFFIRMED.