

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 94-40107  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee.

versus

JUAN RAMON BROWN,  
a/k/a JOHNNY,

Defendant-Appellant,

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Appeal from the United States District Court  
for the Eastern District of Texas  
USDC No. 6:93-CR-46-1  
- - - - -  
(July 20, 1994)

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

PER CURIAM:\*

Juan Ramon Brown appeals the 132-month sentence imposed by the district court following his guilty plea to possessing with the intent to distribute 4.7 grams of cocaine and to trafficking in stolen motor vehicles with altered identification numbers. Brown was involved in two conspiracies. A cocaine distribution conspiracy, which involved Brown and his wife, Juana Maria Brown, and a conspiracy to traffic in stolen motor vehicles and motor vehicle parts, which did not involve Juana.

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

On appeal, Brown argues that the district court violated his right to equal protection and discriminated against him on the basis of gender by sentencing him to a term of 132 months while imposing a split sentence of 5 months in prison and 5 months of home detention on his wife for her participation in the drug conspiracy. Brown did not object to his sentence on this basis in the district court. We will not consider an argument not raised in the district court unless it involves a purely legal question and the failure to address it would result in manifest injustice. United States v. Garcia-Pillado, 898 F.2d 36, 39 (5th Cir. 1990).

We decline to address this argument because it is not a purely legal question. Before we could compare the relative culpability of Juan and Juana, additional facts concerning Juana's sentencing would have to be adduced. We also note that this Court has repeatedly held that a defendant cannot challenge his sentence based on the lesser sentence given by the district court to a co-defendant. E.g., United States v. Pierce, 893 F.2d 669, 678 (5th Cir. 1990); United States v. Boyd, 885 F.2d 246, 249 (5th Cir. 1989). Moreover, at sentencing, Juan's counsel stated: "Mr. Brown . . . accepts responsibility for getting his wife involved in this. He knows that it's his--it was his responsibility and he should be the one to pay [for] the crime, not her." (emphasis added). This statement undercuts Juan's argument that he received a longer sentence than his wife based on his gender rather than on his greater culpability.

AFFIRMED.