

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-40469
No. 94-40487
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

VAN TERAIL WILLIAMS,

Defendant-Appellant.

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

SAM LARRY SMITH, JR.,

Defendant-Appellant.

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Appeals from the United States District Court
for the Western District of Louisiana
USDC No. 5:93-CR-50082-ALL
USDC No. 93-CR-50082-01
- - - - -

(November 17, 1994)

Before JONES, DUHÉ, and PARKER, Circuit Judges.

PER CURIAM:*

Van Terail Williams appeals his conviction by guilty plea of carjacking, aiding and abetting, and using a firearm during a crime of violence. Sam Larry Smith, Jr., appeals his conviction

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

by guilty plea of carjacking and aiding and abetting.

Smith did not seek review by the district judge of the magistrate judge's ruling transferring him for trial as an adult. This Court is without jurisdiction to consider an appeal from the magistrate judge's order. *Colburn v. Bunge Towing, Inc.*, 883 F.2d 372, 379 (5th Cir. 1989); *United States v. Renfro*, 620 F.2d 497, 500 (5th Cir.), *cert. denied*, 449 U.S. 921 (1980). Additionally, youth is not a permissible factor on which to base a downward departure from the guideline sentencing range. *United States v. Madison*, 990 F.2d 178, 183 (5th Cir.), *cert. dismissed*, 114 S. Ct. 339 (1993); *United States v. White*, 945 F.2d 100, 101-02 (5th Cir. 1991). Smith has failed to raise a meritorious issue for appeal.

A valid guilty plea waives all double jeopardy objections not evident on the face of the record. *United States v. Croce*, 488 U.S. 563, 569, 109 S. Ct. 757, 102 L. Ed. 2d 927 (1989). Conviction of both carjacking and use of a firearm does not violate the Double Jeopardy Clause. *United States v. Singleton*, 16 F.3d 1419, 1425-29 (5th Cir. 1994). Williams waived his double jeopardy contention by pleading guilty. Additionally, "[b]ecause of the obvious effect that carjackings have on interstate commerce, we hold that the carjacking statute is a valid exercise of Congress's Commerce Clause powers." *United States v. Harris*, 25 F.3d 1275, 1280 (5th Cir. 1994). Williams has failed to raise a meritorious issue for appeal.

AFFIRMED.