

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-50637
Summary Calendar

UNITED STATES OF AMERICA, Plaintiff-Appellee,
versus
RITA BECERRA, Defendant-Appellant.

Appeal from the United States District Court for the
Western District of Texas
(A 94 CR 79)

August 17, 1995

Before KING, SMITH, and BENAVIDES, Circuit Judges.

PER CURIAM:

Defendant-Appellant Rita Becerra ("Becerra") appeals the conviction and sentence imposed after she pleaded guilty to conspiracy to distribute methamphetamine. The district court sentenced her to 324 months imprisonment, five years of supervised release, a fine of \$50,000 and a special assessment of \$50.00. Finding no reversible error, we AFFIRM.

I.

Becerra asserts that she was punished twice for the same

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

offense in violation of the Double Jeopardy Clause. She argues that the civil forfeiture of her belongings and possessions was held prior to the criminal proceedings and thus precluded subsequent prosecution for the alleged criminal activity.

Becerra bears the burden of designating and creating the record on appeal to provide all relevant evidence to support her appellate argument. FED. R. APP. P. 10(b)(2), 11(a); *United States v. Coveney*, 995 F.2d 578, 587 (5th Cir. 1993). Although she asserts that the civil forfeiture preceded her conviction, she has failed to provide any documents to support her assertion. If the appellant fails to provide the necessary record for review of her issues, we need not consider the issues on appeal. See *Powell v. Estelle*, 959 F.2d 22, 26 (5th Cir.), cert. denied, ___U.S.___, 113 S.Ct. 668, 121 L.Ed.2d 592 (1992). The record before us does not contain documents which might establish the date of forfeiture nor the exact nature and basis of such proceedings.

II.

Becerra next contends that the district court erred in increasing her offense level by three levels under U.S.S.G. § 3B1.1(b). She argues that there is insufficient factual support for the district court's finding that she was a manager or supervisor as required under § 3B1.1(b)

Section 3B1.1(b) provides for a three-level increase in the offense level "[i]f the defendant was a manager or supervisor (but not an organizer or leader) and the criminal activity involved five or more participants or was otherwise extensive." U.S.S.G §

3Bl.1(b). "When proper objection is made, a district court's finding of a defendant's role in the offense is reviewed for clear error." *United States v. Fierro*, 38 F.3d 761, 774 (5th Cir. 1994), *cert. denied*, ___U.S.___, 115 S.Ct. 1431, 131 L.Ed.2d 240 (1995).

The probation officer stated in the PSR that the investigation by law enforcement officers indicated that Becerra was the primary participant in the delivery of controlled substances to Codefendant Roy Dunn ("Dunn"). Dunn informed officers that he dealt with Becerra and that she appeared to be in charge of the methamphetamine distribution activity, and that she exercised authority over Friesen, her common-law husband. Dunn always contacted Becerra to arrange for purchases and delivered the money to Becerra. According to Dunn, Becerra and Friesen travelled in Becerra's automobile, Becerra controlled the meetings and Friesen was "passive in nature and . . . took directions from his common-law wife."

Becerra objecting to the presentence report asserts, *inter alia*, that she did not function as a manager or supervisor of the alleged conspiracy. She argued that she was no more than a bookkeeper and that, if she supervised anyone, it was only Friesen. At sentencing, however, Becerra's attorney had no further statement concerning Becerra's role in the offense. Becerra testified at the hearing about matters other than her role in the offense. The district court overruled Becerra's objection to the three-level increase as a manager or supervisor because the evidence of that fact was overwhelming. The evidence is more than adequate to

support the district court's three-level increase under 3B1.1.
Appellant was not just a bookkeeper.

AFFIRMED.