

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 95-11075
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

AUGUSTIN DURAN PEREZ,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:93-CR-021-1-E
- - - - -

August 20, 1996

Before KING, DUHÉ, and DeMOSS, Circuit Judges.

PER CURIAM:*

Augustin Duran Perez appeals his sentence in a guilty-plea conviction for possession of cocaine with intent to distribute. Relying on Bailey v. United States, 116 S. Ct. 501 (1995), he argues that the district court erred in enhancing his offense level under U.S.S.G. § 2D1.1(b)(1). Perez's reliance on Bailey is misplaced; Bailey does not apply to § 2D1.1(b)(1). See United States v. Castillo, 77 F.3d 1480, 1499 n.34 (5th Cir.), petition

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

for cert. filed, (U.S. July 26, 1996) (No. 96-5357). The connection between the weapon and the cocaine was not clearly improbable; therefore, the findings of the district court were not clearly erroneous. See United States v. Mitchell, 31 F.3d 271, 277 (5th Cir.), cert. denied, 115 S. Ct. 455 (1994).

AFFIRMED.