

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 95-11202
(Summary Calendar)

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

EJOOR PATRICK EKWEREKWU,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Northern District of Texas
(USDC No. 3:93-CR-270-H)
- - - - -

September 16, 1996

Before HIGGINBOTHAM, WIENER and BENAVIDES, Circuit Judges.

PER CURIAM:*

Ejoor Patrick Ekwerekwu appeals from his conviction and sentence for conspiracy to import heroin. Ekwerekwu argues that he was denied both his constitutional and his statutory right to a speedy trial. We have reviewed the record and find no reversible error. Because the district court extended the period for retrial pursuant to 18 U.S.C. § 3161(e) and because Ekwerekwu's retrial commenced within the 180-day period, Ekwerekwu's statutory right to

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

a speedy trial was not violated. See United States v. Holley, 986 F.2d 100, 103 (5th Cir.), cert. denied, 510 U.S. 821 (1993). Further, the five-month delay was not "presumptively prejudicial" for purposes of Barker v. Wingo, 407 U.S. 514, 530 (1972). See Robinson v. Whitley, 2 F.3d 562, 567 (5th Cir. 1993), cert. denied, 510 U.S. 1167 (1994). Accordingly, the judgment of the district court is AFFIRMED.

AFFIRMED.