

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 95-30887
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

STEVE EDWIN SWIMMER,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Eastern District of Louisiana
USDC No. 95-CA-1479
- - - - -

April 9, 1996

Before SMITH, BENAVIDES, and DENNIS, Circuit Judges.

PER CURIAM:*

Steve Edwin Swimmer appeals from the district court's denial of his motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255. He argues that the forfeiture of his property and his subsequent conviction violated principles of double jeopardy, that he was entitled to a downward departure pursuant to § 5K2.0 and that the district court mistakenly believed that it lacked the authority to depart downward, that he was entitled to a four-level decrease pursuant to § 3B1.2 for his

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

minimal role in the offense, that the district court should have sentenced him without regard to any statutory minimum sentence pursuant to § 5C1.2, that he should have been given credit on his one-year term of supervised release for the time he spent in pretrial custody pursuant to the commentary to § 5D1.1, and that he was entitled to a downward departure pursuant to the retroactive application of the commentary to § 2D1.1. We have reviewed the record and find no reversible error. Accordingly the judgment is AFFIRMED for essentially the reasons stated by the district court. See United States v. Swimmer, No. 93-036 (E.D. La. Aug. 9, 1995).

AFFIRMED.