

IN THE UNITED STATES -COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 95-60687  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

MARVIS TABOR, A/K/A as Turk,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Northern District of Mississippi  
USDC No. 4:94-CR-52-S  
- - - - -

July 5, 1996

Before GARWOOD, EMILIO M. GARZA and PARKER, Circuit Judges.

PER CURIAM:\*

Marvis Tabor appeals his sentence following a guilty plea to conspiracy to possess with intent to distribute cocaine. He contends that the district court erred when it considered conduct described in Count One of his indictment, a count to which he did not plead guilty, as relevant conduct when sentencing him. Tabor has not shown that the district court's use of the amount of cocaine described in Count One to determine his base offense

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\* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

level was clearly erroneous. United States v. Byrd, 898 F.2d  
450, 452 (5th Cir. 1990).

AFFIRMED.