

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 96-10535
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

RAMON SARMIENTO-MALDONADO,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:92-CR-399-G
- - - - -

December 12, 1996

Before GARWOOD, JOLLY and DENNIS, Circuit Judges.

PER CURIAM:*

Ramon Sarmiento-Maldonado (Sarmiento) pleaded guilty to one count of conspiracy to distribute heroin. The district court held Sarmiento accountable for an uncompleted transaction involving 3.5 kilograms of heroin under U.S.S.G. § 2D1.1. The district court was not clearly erroneous in calculating the amount of heroin involved in Sarmiento's offense. See United States v. Bermea, 30 F.3d 1539, 1575 (5th Cir. 1994), cert.

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

denied, 115 S. Ct. 1113, 1825 (1995); United States v. Vine, 62 F.3d 107, 109-10 (5th Cir. 1995). The district court complied with Fed. R. Crim. P. 32(c)(3)(D) in finding that Sarmiento had the intent and ability to sell 3.5 kilograms of heroin by specifically adopting the relevant portions of the Presentence Report (PSR). See United States v. Mora, 994 F.2d 1129, 1141 (5th Cir.), cert. denied, 510 U.S. 958 (1993).

AFFIRMED.