

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 96-10845  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JAVIER SOTO,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 4:96-CV-272-A  
- - - - -

December 3, 1996

Before GARWOOD, JOLLY and DENNIS, Circuit Judges.

PER CURIAM:\*

Javier Soto appeals the district court's denial of his motion pursuant to 28 U.S.C. § 2255. Soto argues that his sentence improperly was enhanced pursuant to U.S.S.G. § 2D1.1 for possession of weapons in connection with his drug-trafficking offenses. For essentially the reasons set forth by the district court, the appeal is AFFIRMED. See United States v. Soto, No. 4:96-CV-272-A (N.D. Tex. July 2, 1996).

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\* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

This court has not yet determined whether a certificate of appealability ("COA") is required under the circumstances of this appeal. See 28 U.S.C. § 2253. To the extent that a COA is required, Soto's notice of appeal is construed as an application for a COA and the motion is DENIED.