

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 96-31084
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

RICKEY VARNELL MANNING,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 96-CR-50031
- - - - -

June 18, 1997

Before SMITH, STEWART, and DENNIS, Circuit Judges.

PER CURIAM:*

Rickey Varnell Manning appeals his sentence asserting that there were insufficient facts to support the four-level enhancement of his sentence pursuant to U.S.S.G. § 3B1.1(a). He argues that the Government failed to prove the existence of five or more participants in the conspiracy, as required by § 3B1.1(a), and that his statements to the Government regarding

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

other participants were used in violation of the use immunity granted to him in his plea agreement.

The district court's factual finding that Manning played a leadership role in the offense is plausible in light of the record reviewed in its entirety. See United States v. Narvaez, 38 F.3d 162, 166 (5th Cir. 1994). Therefore, that finding is not clearly erroneous. Id. Since the information relied on by the Government and by the district court to prove the existence of five or more coconspirators was known to the Government prior to entering into Manning's plea agreement, the Government's use of that information did not violate the agreement. See U.S.S.G. § 1B1.8(a), (b)(1).

AFFIRMED.