

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 96-50484
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JOSE ANGEL ORTIZ, a/k/a Chaeto,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Western District of Texas
USDC No. A-95-CR-83(2)
- - - - -

April 15, 1997

Before REAVLEY, DAVIS, and BARKSDALE, Circuit Judges.

PER CURIAM:*

Jose Angel Ortiz pleaded guilty to count 1 of an indictment charging him with conspiracy to distribute cocaine and has appealed his sentence. The Government contends that the appeal should be dismissed because Ortiz waived his statutory appellate rights in his plea agreement with the Government. Ortiz argues that the waiver was not knowing and voluntary because his sentence had not yet been determined at the time he entered 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* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

guilty plea. The district court determined that Ortiz understood that he had a right to appeal his sentence and that he was waiving that right by entering a guilty plea under the terms of the plea agreement with the Government. No objection was raised and there is no reason to believe that Ortiz did not know what he was doing. See United States v. Portillo, 18 F.3d 290, 292 (5th Cir. 1994); United States v. Melancon, 972 F.2d 566, 568 (5th Cir. 1992). The appeal is frivolous and is DISMISSED. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983); 5th Cir. R. 42.2.

APPEAL DISMISSED.