

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 96-50862
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ROBERT EARL HOPPER,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Western District of Texas
USDC No. W-95-CR-109-1
- - - - -

February 11, 1998

Before JOLLY, BENAVIDES and PARKER, Circuit Judges.

PER CURIAM:*

Robert Earl Hopper appeals the sentence he received after he pleaded guilty to conspiracy to distribute and possession with intent to distribute methamphetamine, and to notice of the Government's Demand for Forfeiture. He argues that he is entitled to the appointment of counsel on appeal. This issue is res judicata. He also argues that he received ineffective assistance of counsel at trial. This court, however, does not review claims of ineffective assistance of counsel on direct

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

appeal which were not presented to the district court. United States v. Chavez-Valencia, 116 F.3d 127, 133 (5th Cir.), cert. denied, 118 S. Ct. 325 (1997).

Hopper argues that the waiver of the right to appeal his sentence is not applicable because he agreed to waive the right to appeal his sentence only if it was imposed in conformity with the Sentencing Guidelines. Hopper further argues that the sentencing court did not properly calculate his sentence because it failed to distinguish between dextro-methamphetamine and levo-methamphetamine when it determined his offense level, in violation of the Ex Post Facto Clause. He also challenges the drug quantity used for determining his offense level. We have reviewed the parties' briefs and the record and find Hopper waived his right to appeal his sentence. Accordingly, his appeal is DISMISSED. See United States v. Melancon, 972 F.2d 566, 568 (5th Cir. 1992).