

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 97-10107
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JAMES STANLEY LUKE, also known
as Stanley Luke,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Northern District of Texas
USDC No. 2:96-CR-037-1-J
- - - - -

August 14, 1997

Before KING, HIGGINBOTHAM, and DUHÉ, Circuit Judges.

PER CURIAM:*

James Stanley Luke appeals his conviction for retaliating against a witness under 18 U.S.C. § 1513(b)(2), arguing that the statute is vague. Luke waived this challenge by not raising it in the district court. FED. R. CRIM. P. 12(b)(1), (2); (f); see *United States v. Chavez-Valencia*, 116 F.3d 127, 130 (5th Cir. 1997) (failure to raise motion to suppress in the district court

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

waives appellate review). Luke also contends that the district court abused its discretion by ordering that he receive substance-abuse testing and treatment while on supervised release. The district court did not plainly err by requiring drug testing during Luke's period of supervised release. See *United States v. Calverley*, 37 F.3d 160, 162-64 (5th Cir. 1994) (en banc).

AFFIRMED.