

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 97-30599
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ANTHONY THOMAS,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Eastern District of Louisiana
USDC No. 96-CV-2218
- - - - -

March 11, 1998

Before JONES, SMITH, and STEWART, Circuit Judges.

PER CURIAM:*

Anthony Thomas, prisoner no. 24664-034, appeals the district court's denial of his 28 U.S.C. § 2255 motion. He argues that 1) he was denied effective assistance of counsel because his attorney at the time of the entering of his guilty plea and of his sentencing failed to inform him of his right to appeal and 2) the factual basis was insufficient to establish that he used or carried a weapon during and in relation to a drug trafficking offense.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Our review of the evidentiary hearing and of Thomas' guilty plea hearing reveals that the district court did not clearly err in finding that he knowingly and voluntarily waived his right to appeal his conviction and sentence. United States v. Gipson, 985 F.2d 212, 216 (5th Cir. 1994).

The factual basis signed by Thomas and Thomas' statements at his guilty-plea hearing indicate that he used a vehicle during a drug trafficking offense with knowledge that a gun was present in the vehicle in relation to the offense. These facts are sufficient to establish that he carried a weapon under 18 U.S.C. § 924(c)(1) under the current law of this circuit. See United States v. Muscarello, 106 F.3d 636, 639 (5th Cir. 1997), cert. granted, 118 S. Ct. 621 (Dec. 12, 1997).

AFFIRMED.