

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 97-31044  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

RUDY THOMAS MITCHELL,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Western District of Louisiana  
USDC No. 97-CR-10007-ALL  
- - - - -

May 15, 1998

Before WIENER, BARKSDALE and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:\*

Rudy Thomas Mitchell appeals the sentence he received after he pleaded guilty to possession of a machine gun. Mitchell has not shown that the district court mistakenly thought that it could not downwardly depart or that the court misapplied the Sentencing Guidelines. Thus, Mitchell's argument that he was entitled to a downward departure in his sentence based on

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\* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

economic loss to third parties is not reviewable. See United States v. DiMarco, 46 F.3d 476, 477-78 (5th Cir. 1995).

AFFIRMED.