

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 97-41144  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

TIRSO PEREZ-OCANAS,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. M-94-CR-224-1  
- - - - -

February 1, 1999

Before HIGGINBOTHAM, JONES, and DENNIS, Circuit Judges.

PER CURIAM:\*

Tirso Perez-Ocanas appeals his sentence following a guilty-plea conviction of possession with intent to distribute cocaine. Perez-Ocanas argues that the district court erred in calculating his offense level based on a finding that his offense involved six kilograms of cocaine.

The presentence report indicated that Perez-Ocanas acted as a middle man in negotiations to sell 12 kilograms of cocaine to Drug Enforcement Administration (DEA) agents. Perez-Ocanas delivered

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

2.4 kilograms of cocaine to the agents and indicated that the remaining cocaine was at his ranch. DEA agents searched the ranch and seized an additional 4.8 kilograms of cocaine.

The district court found that Perez-Ocanas's offense involved the six kilograms of cocaine that were seized because that is the amount that Perez-Ocanas negotiated to sell and was capable of producing. See United States v. Davis, 76 F.3d 82, 85-86 (5th Cir. 1996). Perez-Ocanas presented no evidence to rebut the findings in the PSR. The district court was entitled to adopt the findings in the PSR without further inquiry. United States v. Ayala, 47 F.3d 688, 690 (5th cir. 1995). Because Perez-Ocanas was sentenced based on his own conduct, the district court was not required to make specific factual findings regarding Perez-Ocanas's involvement in the conspiracy. See United States v. McKinney, 53 F.3d 664, 677 (5th Cir. 1995).

AFFIRMED.