

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 97-50088
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

RAYMOND GILET CARPENTER, JR.,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Western District of Texas
USDC No. SA-95-CR-289-1
- - - - -

August 14, 1997

Before KING, HIGGINBOTHAM, and DUHÉ, Circuit Judges.

PER CURIAM:*

Raymond Gilet Carpenter, Jr., appeals his sentence following a guilty-plea conviction for making false and fraudulent statements to a government agency and to the Commodity Credit Corporation in violation of 18 U.S.C. § 1001 and 15 U.S.C. § 714m(a). He bases his appeal on the grounds that the district court erred in refusing to depart downwardly after he provided substantial assistance to the Government and in refusing to

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

permit another judge to determine the appropriateness of a downward departure.

The plea agreement Carpenter entered into with the Government waived his right to appeal his sentence except as to a sentence imposed outside the 21-to-27-month range. The sentence he received, 22 months, fell within that range. We have reviewed the record and conclude that the waiver was informed and voluntary and is therefore binding on Carpenter. His appeal is without arguable merit and thus frivolous. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983). Because the appeal is frivolous, it is dismissed. See 5TH CIR. R. 42.2.

APPEAL DISMISSED.