

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 98-20140  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JOSE MANUEL RODARTE,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. H-97-CR-195-2  
- - - - -

December 10, 1998

Before DAVIS, DeMOSS, and STEWART, Circuit Judges.

PER CURIAM:\*

Jose Manuel Rodarte appeals his sentence after pleading guilty to one count of conspiracy to distribute heroin and three counts of aiding and abetting the distribution of heroin. He argues that the district court erred in imposing a two-level increase under U.S.S.G. § 2D1.1(b)(1) for possession of a firearm. Specifically, he maintains that the district court violated Federal Rule of Criminal Procedure 32(c)(1) when it failed to resolve a factual dispute at sentencing concerning the location of one of the firearms found at his residence. He also

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

maintains that the Government failed to prove by a preponderance of the evidence that a firearm was found in the same location where drugs or drug paraphernalia were stored or where part of the drug transaction occurred.

After reviewing the record and the briefs of the parties, we hold that the district court did not err in imposing a two-level increase under § 2D1.1(b)(1) for possession of a firearm. The district court satisfied the requirements of Rule 32(c)(1) at sentencing when it overruled Rodarte's objection based on the information in his presentence report. See United States v. Mora, 994 F.2d 1129, 1141 (5th Cir. 1993). Furthermore, the district court's decision to impose a two-level increase under § 2D1.1(b)(1) was not clearly erroneous. See United States v. Menesses, 962 F.2d 420, 428-29 (5th Cir. 1992).

AFFIRMED.