

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-41153
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JAMES C. LACEY,

Defendant-Appellant.

Appeals from the United States District Court
for the Southern District of Texas
USDC No. C-98-CR-66-1

September 16, 1999

Before SMITH, BARKSDALE, and DeMOSS, Circuit Judges.

PER CURIAM:*

James C. Lacey appeals his sentence following a guilty plea to distribution of child pornography. Lacey argues that the district court clearly erred by increasing his offense level under U.S.S.G. § 2G2.2(b)(3) based on the court's determination that the offense involved material portraying sadistic or masochistic conduct. We have reviewed the evidence on which the district court based its determination and find no error. United States v. Kimbrough, 69 F.3d 723, 734 & n.7 (5th Cir. 1995); see

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

United States v. Canada, 110 F.3d 260, 262-63 (5th Cir.), cert. denied, 118 S. Ct. 195 (1997). Lacey also argues that the district court erred by increasing his offense level under U.S.S.G. § 2G2.2(b)(2) based on its finding that his offense involved the "distribution" of child pornography; however, he concedes that this argument is foreclosed by circuit precedent. See Canada, 110 F.3d at 263.

AFFIRMED.