

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 99-10119
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

LATONYA RENA MILES, also know as So Fine,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:98-CR-256-G

December 14, 1999

Before JOLLY, HIGGINBOTHAM, and BARKSDALE, Circuit Judges.

PER CURIAM:*

LaTonya Rena Miles pleaded guilty to count 1 of a five-count indictment charging her with conspiracy to possess with intent to distribute over one kilogram of cocaine base and has appealed his sentence. Miles contends that the district court erred in determining the quantity of drugs attributable to her.

We review the sentencing court's calculation of the quantity of drugs involved for clear error. United States v. Mergerson, 4 F.3d 337, 345 (5th Cir. 1993). A factual finding is not clearly

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

erroneous if it is plausible in light of the record read as a whole. United States v. Watson, 966 F.2d 161, 162 (5th Cir. 1992).

Miles argues that the record does not support the attribution of two kilograms of cocaine base to her from an uncompleted transaction. Instead she argues that she should only be held responsible for 1.19 kilograms of cocaine base. The record reflects that Miles negotiated, intended to, and was capable of supplying this quantity of cocaine base. The uncontroverted facts in the Presentence Investigation Report (PSR) and the testimony of Special Agent Brady of the Federal Bureau of Investigation support this finding. Miles has not produced any evidence to refute the report or Brady's testimony. Because Miles did not present any rebuttal evidence, the district court was free to adopt those facts without further inquiry. See United States v. Mir, 919 F.2d 940, 943 (5th Cir. 1990). Miles has failed to show that the district court clearly erred in the amount of drugs attributed to her.

AFFIRMED.