

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 99-20489
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ERIC FITZGERALD SIDNEY,

Defendant-Appellant.

Appeal from the United States District Court
for the ern District of
USDC No. H-98-CR-447-1

February 16, 2000

Before EMILIO M. GARZA, BENAVIDES, and DENNIS, Circuit Judges.

PER CURIAM:*

Eric Fitzgerald Sidney appeals his sentence for possession of cocaine base with intent to distribute, in violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(A)(iii). Sidney contends that the district court clearly erred in assessing a two-level increase to his offense level for possession of a firearm under U.S.S.G. § 2D1.1(b)(1).

We have reviewed the record and the briefs submitted by the parties and find that the district court's finding that Sidney possessed a firearm in connection with his drug-trafficking

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

offense was supported by a preponderance of the evidence and was not clearly erroneous. United States v. Vasquez, 161 F.3d 909, 912 (5th Cir. 1998); United States v. Mitchell, 31 F.3d 271, 279 (5th Cir. 1994); United States v. Menesses, 962 F.2d 420, 429 (5th Cir. 1992).

Sidney also argues, for issue preservation purposes only, that the district court erred in accepting the PSR's assessment of drugs attributable to him. In particular, he contends that the district court abused its discretion in relying upon the PSR's allegations of additional drug transactions without requiring the Government to offer evidence that Sidney actually engaged in these additional deals. Because Sidney concedes that this issue is foreclosed by this court's precedent, it is not addressed here.

AFFIRMED.