

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 99-60246  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

THOMAS SHERMAN,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Northern District of Mississippi  
USDC No. 2:98-CR-90-ALL-D-B  
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January 20, 2000

Before KING, Chief Judge, and DAVIS and BENAVIDES, Circuit  
Judges.

PER CURIAM:\*

Defendant-Appellant Thomas Sherman ("Sherman") was sentenced to the mandatory minimum sentence of 120 months imprisonment following a guilty-plea conviction for manufacturing methamphetamine in violation of 21 U.S.C. § 841. Sherman raises a number of points of error regarding his sentence. We address his contention that he was not a "leader or organizer" first, as it is dispositive. If Sherman was a "leader or organizer," the district court may not depart from the statutory minimum sentence, regardless of the sentence suggested by the guidelines.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

See United States v. Mankins, 135 F.3d 946, 950 (5th Cir. 1998); U.S.S.G. § 5C1.2. None of Sherman's other objections to the sentence imposed serves to render the statutory minimum sentence inapplicable.

We review the district court's determination that a defendant is a leader or organizer for clear error. See United States v. Ronning, 47 F.3d 710, 711 (5th Cir. 1995). The court may consider any relevant evidence without regard to its admissibility under evidentiary rules if it possesses sufficient indicia of reliability. U.S.S.G. § 6A1.3(a). A presentence report ("PSR") "generally bears sufficient indicia of reliability" and may be considered as evidence by a trial judge in making factual determinations required by the guidelines. United States v. Alfaro, 919 F.2d 962, 966 (5th Cir. 1992).

The PSR and the testimony of Robert Jordan, one of Sherman's accomplices, support the district court's finding that Sherman was in a leadership position with respect to the methamphetamine operation. The district court apparently chose to believe Jordan's testimony regarding Sherman's role and we accord deference to that credibility determination. See United States v. Powers, 168 F.3d 741, 752-53 (5th Cir.), *cert. denied*, -- U.S. --, 120 S.Ct. 360 (1999). As this determination renders Sherman's other objections moot, we decline to address them. See Mankins, 135 F.3d at 950.

AFFIRMED.