

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 00-41328
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JOE WILLIAM PINEDA, JR.,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. V-00-CR-43-ALL

June 22, 2001

Before HIGGINBOTHAM, WIENER and BARKSDALE, Circuit Judges.

PER CURIAM:*

Joe William Pineda, Jr., appeals his sentence following his conviction for one count of possession with intent to distribute 14.5 grams of cocaine. Pineda contends that the district court erred in basing his sentence upon relevant conduct pursuant to U.S.S.G. § 1B1.3; he argues that the district court erroneously relied upon testimony detailing his involvement with trafficking both powder and crack cocaine.

Pineda first argues that the district court erred in finding that his dealings in powder cocaine should not have been used to

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

calculate his sentence. This argument is frivolous. Although the district court found evidence pertaining to Pineda's dealings in powder credible, it specifically declined to base his sentence on this evidence. Rather, the relevant-conduct enhancement was based solely on Pineda's dealings in crack cocaine.

Pineda also challenges the district court's decision to enhance his sentence due to his dealings in crack cocaine. This decision was based on the district court's findings of credibility. These credibility determinations are entitled to deference. See United States v. Huskey, 137 F.3d 283, 291 (5th Cir. 1998). Because the district court's relevant-conduct findings are supported by the testimony that it found credible, the district court's decision to enhance Pineda's sentence for this conduct is not erroneous. Pineda has not shown that the district court erred in enhancing his sentence based on relevant conduct. Accordingly, the judgment of the district court is AFFIRMED.