

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 02-50231
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

LARRY RICHARD WILKS, JR.,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. P-01-CR-357-2

February 18, 2003

Before JOLLY, HIGGINBOTHAM, and DAVIS, Circuit Judges.

PER CURIAM:*

Larry Richard Wilks, Jr. ("Wilks") appeals the sentencing following his guilty plea conviction for possession with the intent to distribute methamphetamine. Wilks argues that the district court erred in not reducing his base offense level by five levels after determining that he was entitled to a safety valve adjustment and a U.S.S.G. § 5K1.1 downward departure. This court reviews the district court's application of the Sentencing Guidelines *de novo*. United States v. Charles, 301 F.3d 309,

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

312-13 (5th Cir. 2002) (en banc). If the oral sentence is ambiguous, this court will look to the written judgment to determine the intent of the district court. Schurmann v. United States, 658 F.2d 389, 390-91 (5th Cir. 1981).

The record indicates that the district court determined that Wilks' total offense level was 22 after granting the Government's motion for a downward departure, and that Wilks was sentenced within the guideline range. Consequently, the district court did not err in sentencing Wilks.

AFFIRMED.