

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

March 31, 2011

Lyle W. Cayce
Clerk

No. 10-60741
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

RANDOLPH FREEMAN, also known as Dee,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Mississippi
USDC No. 1:93-CR-60-1

Before KING, BENAVIDES, and ELROD, Circuit Judges.

PER CURIAM:*

Randolph Freeman appeals the revocation of his supervised release and imposition of 41 months of imprisonment. Freeman contends that the district court erred by denying his motion to dismiss the revocation petition because his rights under Federal Rule of Criminal Procedure 32.1(a)(1) and the Due Process Clause of the United States Constitution were violated when he was deprived of an initial appearance for 27 months following the execution of the revocation warrant.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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We need not determine when the revocation warrant was executed because Freeman has not established that he was prejudiced by the alleged 27-month delay. *See United States v. Tippens*, 39 F.3d 88, 90 (5th Cir. 1994). Therefore, he has failed to establish a due process violation and demonstrate any error, plain or otherwise, in the denial of his motion to dismiss.

The judgment of the district court is AFFIRMED.