

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 97-30717
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

SCHELITA MYERS, also known as Schelita Marigny,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Eastern District of Louisiana
USDC No. 95-CR-153-9-N
- - - - -

May 12, 1998

Before DUHÉ, DeMOSS, and DENNIS, Circuit Judges.

PER CURIAM:¹

Schelita Myers appeals the sentence imposed by the district court in her conviction for misprision of a felony, 18 U.S.C. § 4. Myers contends that the district court abused its discretion and violated her right to due process when it denied her motion for a continuance of the sentencing hearing. Myers asserts that she relied upon the notice that clerk of court is obliged to provide under Fed. R. Crim. P. 49(c), and she was not afforded notice of the rescheduled sentencing hearing.

¹ 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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.

Myers has not shown any prejudice, much less "serious prejudice," resulting from the district court's refusal to grant a second continuance that was requested on the day of the sentencing hearing. See United States v. Correa-Ventura, 6 F.3d 1070, 1074 (5th Cir. 1993). Rule 49(c), Fed. R. Crim. P., which applies to the filing of a notice of appeal, does not relieve the appellant of the burden of timely noticing her appeal even if the clerk of court fails to provide the specified notice. Myers was present at sentencing and was afforded the opportunity to address the court. Myers raised no objections at sentencing. Myers conviction and sentence are AFFIRMED.