

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 00-40386  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ETHAN TREMAINE GUESS,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Eastern District of Texas  
USDC No. 4:99-CR-68-1  
- - - - -  
February 14, 2001

Before SMITH, BARKSDALE, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:\*

Ethan Tremaine Guess appeals his sentence following his jury conviction for conspiracy to distribute or possess with intent to distribute 50 grams or more of cocaine base and possession with intent to distribute less than five grams of cocaine base. Guess argues that the district court erred by including drug amounts from unreliable, ambiguous, and vague testimony or nonexistent testimony because there were no indicia of reliability to support their inclusion.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

The presentence report (PSR) is considered reliable and may be considered as evidence by the court when making sentencing determinations. United States v. Vital, 68 F.3d 114, 120 (5th Cir. 1995). Guess offered no rebuttal evidence to refute the information in the PSR. The court was thus free to adopt that information as its findings without further inquiry. Id.; see also United States v. Cisneros, 112 F.3d 1272, 1280 (5th Cir. 1997). Accordingly, the district court's finding as to the amount of drugs attributable to Guess was not clearly erroneous. United States v. Huskey, 137 F.3d 283, 291 (5th Cir. 1998).

AFFIRMED.