

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-20787
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

BAUDILLO ESPIRITUSANTO, also known as Wilson,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. H-00-CR-875-8

April 10, 2002

Before SMITH, DeMOSS, and PARKER, Circuit Judges.

PER CURIAM:*

Baudillo Espiritusanto was convicted of conspiracy with intent to distribute cocaine and was sentenced to 300 months' imprisonment. The Government has filed a motion to dismiss Espiritusanto's appeal because he is a fugitive. Espiritusanto's attorney argues that Espiritusanto did not escape but, rather, was inadvertently released from the custody of the Harris County Sheriff's Department after the dismissal of a state charge. The attorney notes that, to date, Espiritusanto is not within the custody of any law enforcement agency.

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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Given Espiritusanto's absence and unknown whereabouts, his appeal is dismissed. See Ortega-Rodriguez v. United States, 507 U.S. 234, 239-40 (1993); see also United States v. Delagarza-Villareal, 141 F.3d 133, 136-38 (5th Cir. 1997).

APPEAL DISMISSED.