

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 01-40741  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

TRENT ANTHONY GUIDRY

Defendant-Appellant.

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Appeal from the United States District Court  
for the Eastern District of Texas  
USDC No. 1:97-CR-3-2  
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December 11, 2002

Before JOLLY, DAVIS, and JONES, Circuit Judges.

PER CURIAM:\*

Trent Anthony Guidry appeals from the denial of his motion for a reduced sentence for his cooperation. For the first time on appeal, he argues that this court should enforce a second agreement between himself and the government. Except for limited circumstances, this court has required presentation in the district court before it will hear a theory of recovery. See United States v. Garcia-Pillado, 898 F.2d 36, 39 (5th Cir. 1990). Because Guidry's assertion of a second agreement presents a fact-

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

oriented and new theory of recovery, we decline to consider his argument. Accordingly, we AFFIRM the district court's decision. MOTION TO FILE OUT-OF-TIME REPLY BRIEF GRANTED; AFFIRMED.