

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-50041
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellant,

versus

ALBERT JAMES GISTARD, also known as Buggy,

Defendant-Appellee.

Appeal from the United States District Court
for the Western District of Texas
USDC No. SA-98-CR-266-1-HG

October 24, 2001

Before JOLLY, JONES, and SMITH, Circuit Judges.

PER CURIAM:*

Albert James Gistard pleaded guilty to a superseding information charging him with conspiracy to manufacture and distribute cocaine base and conspiracy to commit money laundering. Gistard has appealed his sentences, contending that the district court erred: (1) in enhancing his sentence because he was a leader or organizer, (2) in enhancing his sentence for possession of a firearm, (3) in refusing to apply the safety-valve provision, (4) in failing to depart downward because of the disparity in sentences given to codefendants, and (5) in

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

sentencing him under 21 U.S.C. § 841(b)(1)(A)(iii), in light of Apprendi v. New Jersey, 530 U.S. 466 (2000). Because Gistard waived his right to appeal his sentence in his plea agreement with the Government, the appeal must be DISMISSED. See United States v. Melancon, 972 F.2d 566, 567 (5th Cir. 1992).

APPEAL DISMISSED.