

June 27, 2005

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 04-50620

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

FRANCES SANTOS,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Texas
(03-CR-674)

Before KING, Chief Judge, DAVIS, Circuit Judge, and FITZWATER,
District Judge.¹

PER CURIAM:²

Frances Santos appeals the sentence she received following her guilty plea for conspiracy with intent to distribute cocaine in violation of 21 U.S.C. § 841(a)(1) and (b)(1)(A) and § 846. She argues that her constitutional rights were violated when the

¹ District Judge for the Northern District of Texas, sitting by designation.

² 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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.

district court made findings related to drug quantity and her role in the offense in violation of United States v. Booker.

We do not reach the merits of Santos' arguments because she waived her right to appeal as part of her plea agreement. Santos makes no argument against the enforcement of the appeal waiver or that her waiver was not knowing and voluntary. There is no indication in the record that her appeal waiver was anything other than knowing and voluntary. Santos' waiver of her right to appeal "any sentence imposed within the maximum provided in the statute of conviction" precludes her argument under Booker because she was sentenced below the statutory maximum for her offense of conviction. United States v. Bond, ___F.3d ___, No. 04-41125, (5th Cir. 2005).

Accordingly, Santos' appeal is DISMISSED.