

**UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 96-20870
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

RODERICK ANTHONY RICE,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
(H-96-CR-27-1)

April 21, 1998

Before POLITZ, Chief Judge, HIGGINBOTHAM and PARKER, Circuit Judges.

PER CURIAM:*

Roderick Rice appeals his sentence after pleading guilty to conspiracy to possess with intent to distribute cocaine base. Rice contends (1) that he was given insufficient notice of the enhancement of his sentence under the career offender guideline; (2) that the district court erred in calculating his criminal history score and in applying the career offender guideline or, alternatively, that he deserved a downward departure because his criminal history category overrepresented his past

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 R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

criminal conduct; (3) that there was insufficient evidence to support the district court's finding that the substance involved was "crack" cocaine; and (4) that the district court erred in failing to reduce his sentence based on his minor role in the offense. In his plea agreement, Rice waived the right to appeal his sentence or the manner in which it was determined, reserving only the right to appeal an upward departure. The district court sentenced Rice within the computed guideline range. Rice's contention that his waiver is invalid due to inadequate consideration on the part of the government is devoid of merit. Because Rice waived the right to appeal his sentence, his appeal is dismissed as frivolous.¹

APPEAL DISMISSED.

¹ **United States v. Abreo**, 30 F.3d 29 (5th Cir. 1994); 5th Cir. R. 42.2.