

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 99-11165
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

MICHAEL L. ARNEY,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:98-CR-220-1-X

August 29, 2000

Before KING, Chief Judge, and POLITZ and WIENER, Circuit Judges.

PER CURIAM:*

Michael L. Arney appeals his sentence imposed following a guilty-plea conviction for maintaining a place for the distribution of methamphetamine. See 21 U.S.C. § 856. He challenges the amount of methamphetamine for which the court held him accountable, and he argues that the district court erred in considering his alleged violent conduct in determining his relevant conduct.

The Government contends that Arney's appeal should be dismissed because, under the terms of his plea agreement, Arney

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

waived the right to appeal his sentence. Arney's brief does not address the validity or effect of the waiver. Nor has Arney filed a reply brief addressing the Government's waiver argument. Review of the record indicates that Arney's waiver was knowing and voluntary, and therefore, Arney waived his right to appeal his sentence. See United States v. Portillo, 18 F.3d 290, 292-93 (5th Cir. 1994); United States v. Melancon, 972 F.2d 566, 568 (5th Cir. 1992).

This appeal is frivolous and is DISMISSED. See 5TH CIR. R. 42.2.

Appointed appellate counsel is reminded of his obligations pursuant to Anders v. California, 386 U.S. 738 (1967).

APPEAL DISMISSED.