

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 99-40045
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

KENNETH RAY FORTNEY,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. C-98-CR-224-1

August 2, 1999

Before JOLLY, DAVIS, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:*

Kenneth Fortney appeals following his conviction for possession with intent to distribute marijuana and his sentence of 57 months' imprisonment. He argues that the district court, by intimidating and interrupting Fortney, denied him his right of allocution at the sentencing hearing in violation of Fed.

R. Crim. P. 32(c)(3)(C).

We review whether the district court complied with Rule 32(c)(3)(C) de novo. See United States v. Myers, 150 F.3d

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

459, 461 (5th Cir. 1998). Our review of the transcript of Fortney's sentencing reveals that the district court personally invited Fortney at least once to say anything on his own behalf and that Fortney was not intimidated to respond. The district court was not required to again extend such an invitation. See United States v. Washington, 44 F.3d 1271, 1277 (5th Cir. 1995).

AFFIRMED.