

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 97-41471
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

CHARLIE DEWAYNE TEMPLETON,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 6:95-36-37
- - - - -

August 19, 1998

Before KING, HIGGINBOTHAM, and JONES, Circuit Judges.

PER CURIAM:*

Charlie Dewayne Templeton appeals his sentence from his guilty-plea conviction for possession with the intent to distribute cocaine.

Templeton challenges the two-level adjustment, pursuant to U.S.S.G. § 3B1.1(c), by arguing that he sufficiently rebutted the information in the presentence report (PSR) about two individuals selling cocaine for him; the only surrebuttal to Templeton's explanation was the probation officer's recollection from his

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

interview notes; the Government presented no evidence to rebut Templeton's explanation; and without any independent evidence corroborating the information in the PSR, the district court's finding lacked a sufficient evidential basis. The district court's credibility determination favored the probation officer's version of the statements made by Templeton during the interview. See United States v. Sarasti, 869 F.2d 805, 807 (5th Cir. 1989). Templeton's statements to the probation officer supported the two-level adjustment for Templeton's role in the offense, and the district court's § 3B1.1 ruling was not clearly erroneous. See United States v. Giraldo, 111 F.3d 21, 23 (5th Cir.), cert. denied, 118 S. Ct. 322 (1997).

AFFIRMED.