

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

No. 14-30263
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

November 26, 2014

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

BRIAN DAVIS,

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 5:13-CR-38-3

Before DAVIS, CLEMENT, and COSTA, Circuit Judges.

PER CURIAM:*

Brian Davis pleaded guilty of conspiring to possess cocaine base and possession of cocaine base (two counts), and he was sentenced within the sentencing guidelines range to concurrent 120-month terms of imprisonment and to concurrent four-year periods of supervised release.

Davis has moved for dismissal of his appointed counsel and for leave to proceed pro se in this appeal. Although Davis has expressed an unequivocal

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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desire to proceed pro se, his request was untimely because it was made after counsel filed his merits brief and after the Government filed its brief. *See United States v. Wagner*, 158 F.3d 901, 902-03 (5th Cir. 1998). The motion is DENIED.

Through counsel, Davis contends that the district court erred at sentencing in finding him responsible for all of the cocaine purchased and sold by his coconspirator/supplier and in failing to make adequate findings with respect to that issue in overruling his drug-quantity objection.

The record reflects that Davis trafficked in large quantities of cocaine and methamphetamine and was present on at least one occasion when drugs were distributed by his supplier to another member of the conspiracy. For those reasons, any error on the part of the district court in failing to consider adequately whether quantities of drugs distributed by other members of the conspiracy were reasonably foreseeable to Davis and in failing to make adequate findings on that issue was harmless. *See United States v. Puig-Infante*, 19 F.3d 929, 942 (5th Cir. 1994); *United States v. Sparks*, 2 F.3d 574, 588-89 (5th Cir. 1993). The judgment is AFFIRMED.