

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

United States Court of Appeals
Fifth Circuit

FILED

August 21, 2017

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

MICHAEL WESLEY JOHNSON, also known as Mike Jones,

Defendant-Appellant

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:16-CR-112-5

Before DAVIS, CLEMENT, and COSTA, Circuit Judges.

PER CURIAM:*

Michael Wesley Johnson appeals the sentence imposed following his guilty plea conviction for conspiracy to possess with intent to distribute a mixture and substance containing a detectable amount of methamphetamine in violation of 21 U.S.C. § 846 and 21 U.S.C. § 841(a)(1) and (b)(1)(C). He argues that the district court erred in accepting the statements of his co-defendants when determining the drug quantity used to calculate his base

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

No. 16-11486

offense level under the Sentencing Guidelines. The Government moves to dismiss the appeal as frivolous or, alternatively, for summary affirmance or an extension of time to file a brief.

As correctly noted by the Government, during the sentencing hearing, Johnson expressly withdrew his objection to the district court's drug quantity calculation. Johnson's objection was therefore waived, and “[w]aived errors are entirely unreviewable[.]” *United States v. Musquiz*, 45 F.3d 927, 931 (5th Cir. 1995).

Because Johnson withdrew his objection to the drug quantity determination, the sole issue raised on appeal is unreviewable. Accordingly, the Government's motion to dismiss the appeal is GRANTED, and the appeal is DISMISSED AS FRIVOLOUS. *See* 5TH CIR. R. 42.2. The Government's alternative motions for summary affirmance or an extension of time to file a brief are DENIED.