

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

RONELLE LAMAR OUDEMS,

Petitioner

v.

UNITED STATES OF AMERICA

Respondent

APPENDIX

INDEX TO APPENDICES

Appendix A Judgment and Sentence of the United States District Court for the Northern District of Texas

Appendix B Judgment and Opinion of Fifth Circuit

APPENDIX A

United States District Court

Northern District of Texas

Abilene Division

UNITED STATES OF AMERICA

v.

RONELLE LAMAR OUDEMS
Defendant.Case Number: 1:18-CR-00034-C(01)
USM No. 57348-177**JUDGMENT IN A CRIMINAL CASE**
(For Offenses Committed On or After November 1, 1987)

The defendant, RONELLE LAMAR OUDEMS, was represented by David E. Sloan.

On motion of the United States, the court has dismissed the remaining count of the indictment as to the defendant.

The defendant pleaded guilty to count 1 of the indictment filed April 11, 2018. Accordingly, the court has adjudicated that the defendant is guilty of the following offenses:

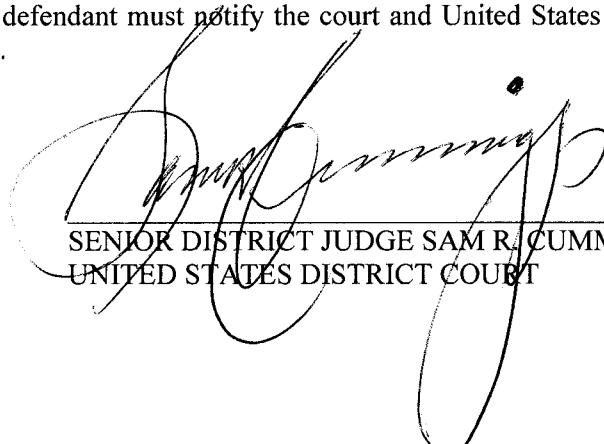
<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Date of Offense</u>	<u>Count Number</u>
21 U.S.C. §§ 841(a)(1) and 841(b)(1)(B)(iii)	Possession With Intent To Distribute 28 Grams Or More Of Cocaine Base	04/11/2018	2

As pronounced on January 25, 2019, the defendant is sentenced as provided in pages 1 through 4 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

It is ordered that the defendant shall pay to the United States a special assessment of \$100.00, for count 2 of the indictment, which shall be due immediately. Said special assessment shall be made to the Clerk, U.S. District Court.

It is further ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material change in the defendant's economic circumstances.

Signed this the 25th day of January, 2019.


 SENIOR DISTRICT JUDGE SAM R. CUMMINGS
UNITED STATES DISTRICT COURT

DEFENDANT: RONELLE LAMAR OUDEMS
CASE NUMBER: 1:18-CR-00034-C(01)

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 210 months as to count 2.

The defendant shall remain in the custody of the U.S. Marshal Service.

The Court recommends incarceration at FCI Fort Worth, Texas.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: RONELLE LAMAR OUDEMS
 CASE NUMBER: 1:18-CR-00034-C(01)

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of: 5 years.

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state, or local crime.

The defendant shall not illegally possess a controlled substance.

For offenses committed on or after September 13, 1994:

The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as directed by the probation officer.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

- The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse.
- The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon.
- The defendant shall cooperate in the collection of DNA as directed by the probation officer.
- The defendant shall comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which he or she resides, works, is a student, or was convicted of a qualifying offense.
- The defendant shall participate in an approved program for domestic violence.
- The defendant must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution.

If this judgment imposes a fine or a restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine or restitution that remains unpaid at the commencement of the term of supervised release in accordance with the Fine and Restitution sheet of the judgment.

The defendant shall comply with the standard conditions that have been adopted by this court (set forth below). The defendant shall also comply with the additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) The defendant shall not leave the judicial district without the permission of the court or probation officer.
- 2) The defendant shall report to the probation officer in a manner and frequency directed by the court or probation officer.
- 3) The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer.
- 4) The defendant shall support his or her dependents and meet other family responsibilities.
- 5) The defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons.
- 6) The defendant shall notify the probation officer at least ten days prior to any change in residence or employment.
- 7) The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician.
- 8) The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered.
- 9) The defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer.
- 10) The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer.
- 11) The defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer.
- 12) The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court.
- 13) As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: RONELLE LAMAR OUDEMS
CASE NUMBER: 1:18-CR-00034-C(01)

SPECIAL CONDITIONS OF SUPERVISION

1. The defendant shall abstain from the use of alcohol and all other intoxicants during the term of supervision.
2. The defendant shall participate in a program (inpatient and/or outpatient) approved by the U.S. Probation Office for treatment of narcotic, drug, or alcohol dependency, which will include testing for the detection of substance use or abuse. The defendant shall contribute to the costs of services rendered (copayment) at a rate of at least \$40.00 per month.

APPENDIX B

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 19-10127
Summary Calendar

United States Court of Appeals
Fifth Circuit
FILED
November 19, 2019

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

RONELLE LAMAR OUDEMS,

Defendant-Appellant

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 1:18-CR-34-1

Before KING, GRAVES, and WILLETT, Circuit Judges.

PER CURIAM:*

Ronelle Lamar Oudems pleaded guilty to possession “with intent to distribute 28 grams and more, but less than 280 grams, of cocaine base” (crack). Relying mostly on information from seven confidential informants (CIs) about Oudems’s long history of trafficking in cocaine and methamphetamine, the presentence report (PSR) calculated a “converted drug weight” (CDW) of 117,404.64 kilograms for sentencing purposes. *See* U.S.S.G.

* 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.

§ 2D1.1(c)(1) & comment. (n.8) (explaining drug weight conversion). Over Oudem's objections about the relevant drug quantity, the district court accepted the PSR's calculations and sentenced Oudem to 210 months in prison, at the bottom of the advisory guideline range.

Oudem appeals and contends that the district court clearly erred by considering the drug amounts reported by CI number 3 (CI-3) and CI number 7 (CI-7), which totaled more than 105,000 kilograms of CDW. He asserts that the assertions of CI-3 and CI-7 were "outlandish" and implausible and thus lacked sufficient indicia of reliability under U.S.S.G. § 6A1.3(a) (p.s.).

A district court's finding of drug quantity relevant to sentencing is a factual finding reviewed for clear error. *United States v. Rogers*, 1 F.3d 341, 342 (5th Cir. 1993). "Under the clearly erroneous standard, if the district court's account of the evidence is plausible in light of the record viewed in its entirety the court of appeals may not reverse it even though convinced that had it been sitting as the trier of fact, it would have weighed the evidence differently." *Id.* (internal quotation marks, brackets, and citation omitted).

Where the amount of seized drugs "does not reflect the scale of the offense, the court shall approximate the quantity of the controlled substance." § 2D1.1, comment. (n.5); *see United States v. Betancourt*, 422 F.3d 240, 246 (5th Cir. 2005). Ultimately, the district court's estimate of drug quantity need only be supported by a preponderance of relevant and reasonably reliable evidence. *See id.* at 246-247. A "district court has significant discretion in evaluating reliability." *United States v. Young*, 981 F.2d 180, 185 (5th Cir. 1993). The requirement of reasonable reliability is not onerous. *United States v. Malone*, 828 F.3d 331, 337 (5th Cir. 2016). "Even uncorroborated hearsay," for example, "may be sufficiently reliable," and "the district court may rely on the information presented in the presentence investigation report so long as the

information has ‘some minimum indicium of reliability.’” *United States v. Gaytan*, 74 F.3d 545, 558 (5th Cir. 1996) (internal quotation marks and citation omitted). Statements derived from police investigations generally bear sufficient indicia of reliability. *See United States v. Valdez*, 453 F.3d 252, 267 (5th Cir. 2006); *United States v. Vela*, 927 F.2d 197, 201 (5th Cir. 1991). “The defendant bears the burden of demonstrating that information the district court relied on in sentencing is materially untrue.” *Id.* (internal quotation marks and citation omitted).

Oudem's first contends that there was no good cause for not disclosing the CIs' identities. Generally, an out-of-court declaration “by an unidentified informant may be considered where there is good cause for the non-disclosure of the informant's identity and there is sufficient corroboration by other means.” § 6A1.3, comment.; *see United States v. Young*, 981 F.2d 180 (5th Cir. 1993)). But Oudem's disclosure claim is reviewed only for plain error because he never asked for the disclosure of the CIs' identities in the district court. *See Young*, 981 F.2d at 187. To show plain error, Oudem must first show a forfeited error that is clear or obvious beyond “reasonable dispute” and that affects his substantial rights. *Puckett v. United States*, 556 U.S. 129, 135 (2009). He fails to make this initial showing.

Disclosure was not required here because the evidence showed that the CIs were known to Oudem, who personally met and dealt with them. *See United States v. Guerrero*, No. 93-3450, 1994 WL 57697, at *1 (5th Cir. Feb. 18, 1994) (unpublished). Because *Guerrero* was issued before January 1, 1996, it is binding precedent. *See* 5TH CIR. R. 47.5.3. It is closely on point and shows that any legal error in not requiring the Government to *sua sponte* disclose the CIs' identities was not “clear or obvious, rather than subject to reasonable dispute.” *Puckett*, 556 U.S. at 135.

In addition, the implicit factual finding that Oudems knew the CIs cannot be a plain error because that discrete factual question would have been “capable of resolution by the district court” if Oudems had raised the issue. *United States v. Lopez*, 923 F.2d 47, 50 (5th Cir. 1991). Regardless, undisputed testimony showed that CI-3 lived for a while at Oudems’s uncle’s house and that Oudems knew CI-7 well enough to drive a pickup truck that was registered to CI-7.

The remaining issue is whether the CIs’ information “was grounded in some indicia of reliability.” *Rogers*, 1 F.3d at 344. Oudems asserts that the accusations of CI-3 and CI-7 are “rebutted” by other evidence. But his actual argument is merely a conclusional assertion that there was not enough corroboration. The mere lack of additional or extra evidence does not refute the evidence that was available, and Oudems has failed to carry his burden of showing that the available evidence was “materially untrue.” *United States v. Gaytan*, 74 F.3d 545, 558 (5th Cir. 1996)

Oudems asserts that the CIs’ assertions of regular drug dealing over a lengthy time frame, and with “clockwork regularity . . . strain credulity.” But Oudems does not seek relief based on mere “exaggeration” by CI-3 and CI-7. Instead he seeks to have their evidence completely discounted so that both his relevant drug quantity and his criminal history category will be reduced. Oudems shows no entitlement to the relief he seeks.

Finally, Oudems argues that the Sixth Amendment requires that he be allowed to confront and cross-examine the CIs whose statements affected his sentence. He acknowledges that his claim is foreclosed by *United States v. Beydoun*, 469 F.3d 102, 108 (5th Cir. 2006).

The judgment is AFFIRMED.