

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

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No. 01-50230  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

RENE ENRIQUEZ,

Defendant-

Appellant.

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. SA-99-CR-513-ALL  
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October 15, 2001

Before DAVIS, BENAVIDES and STEWART, Circuit Judges:

PER CURIAM:\*

Rene Enriquez appeals his sentence for transporting illegal aliens in violation of 8 U.S.C. § 1324(a)(1)(A)(ii). He contends that the district court clearly erred in enhancing his sentence pursuant to § 2L1.1(b)(5) of the sentencing guidelines. Section 2L1.1(b)(5) provides for an increase in a defendant's offense level if the offense involved intentionally or recklessly creating a substantial risk of death or serious bodily injury to another person. Enriquez was stopped for driving 98 miles per hour (mph) in a 70 mph zone. Upon inspection of the vehicle, the trooper observed nine illegal aliens from Mexico hiding on the floor of the van. The van had a rate capacity of seven persons. The district court did not err in applying § 2L1.1(b)(5) to enhance Enriquez's sentence.

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\* Pursuant to 5<sup>TH</sup> 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5<sup>TH</sup> CIR. R. 47.5.4.

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AFFIRMED.