

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 02-40436
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

DANIEL RUBALCADA, also known as Armando Trevino,
also known as Jose Manuel,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. L-01-CR-128-ALL

January 29, 2003

Before DAVIS, WIENER and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:*

Daniel Rubalcada appeals his sentence for possession with intent to distribute marihuana in violation of 21 U.S.C. § 841(a) and 21 U.S.C. § 846(b)(1)(D). Rubalcada argues that the district court erred in giving him an upward adjustment for obstruction of justice pursuant to U.S.S.G. § 3C1.1, because there was no evidence that he had willfully failed to appear at 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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.

arraignment and because the district court made no finding of willfulness.

The district court did not clearly err in adjusting Rubalcada's sentence for obstruction of justice, since there is ample evidence in the record that his failure to appear was willful. See United States v. Edwards, 303 F.3d 606, 645-46 (5th Cir. 2002). For example, at sentencing, the district court found that Rubalcada had absconded and had traveled around the country to evade law enforcement.

AFFIRMED.