

October 19, 2004

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-20610
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JORGE LUIS GARZA,
also known as Guillermo Heurta-Sanchez,
also known as Mono Renzo,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. H-99-CR-455-2

Before WIENER, BENAVIDES, and STEWART, Circuit Judges.

PER CURIAM:*

Jorge Luis Garza appeals his sentence imposed following his jury trial convictions for aiding and abetting and conspiracy to launder money and to distribute five or more kilograms of cocaine. Counsel for Garza has filed a motion seeking judicial notice of Blakely v. Washington, 124 S. Ct. 2531 (2004). The motion is GRANTED. Garza has separately filed a pro se motion, also seeking judicial notice of Blakely. Garza's pro se motion

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

is DENIED. See United States v. Ogbonna, 184 F.3d 447, 449 & n.1 (5th Cir. 1999); see also 5TH CIR. R. 28.7.

Garza argues that the district court erred in granting the Government an extension of time sua sponte to lodge an untimely objection to the Presentence Report (PSR). The district court granted the Government leave to file the untimely objection based on the PSR's failure to assess a two-level kidnaping enhancement pursuant to U.S.S.G. § 3A1.3. The court rescheduled the sentencing hearing, noting that it was important that the PSR be correct and that Garza be provided with an opportunity to respond.

We review rulings on untimely objections under FED. R. CRIM. P. 32(i)(1)(D) for an abuse of discretion. See United States v. Chung, 261 F.3d 536, 539 (5th Cir. 2001). Because the district court's ruling was supported by an implicit finding of good cause, there was no abuse of discretion. See id.

AFFIRMED.