

February 2, 2004

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-50699
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

RENE ROCHA,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. A-03-CR-168-01-SS

Before JOLLY, SMITH, and WIENER, Circuit Judges.

PER CURIAM:*

Rene Rocha appeals the district court's revocation of his supervised release. Rocha argues that the reason that the district court revoked his supervised release was that he had allegedly committed child abuse and that, because that allegation had not been proven, the order revoking his supervised release must be revoked.

There was ample evidence submitted at the revocation hearing to support the court's finding that Rocha had used alcohol after

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

the prohibition on the consumption of alcohol had been made a term of his supervised release, and Rocha admits as much in his brief. Although the district court allowed the Government to put on witness testimony that included discussion of Rocha's alleged child abuse while under the influence of alcohol, the record reflects that the district court based its order of revocation on the fact that Rocha violated the terms of his supervised release by drinking alcohol.

Consequently, Rocha has not shown that the district court abused its discretion in revoking his supervised release. United States v. McCormick, 54 F.3d 214, 219 (5th Cir. 1995). The district court's judgment is AFFIRMED.