

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 97-40098

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

DONALD R. BUDD,

Defendant-Appellant.

Appeal from the United States District Court
for the Eastern District of Texas
(1:96-CR-22)

August 26, 1998

Before REYNALDO G. GARZA, HIGGINBOTHAM, and EMILIO M. GARZA,
Circuit Judges.

B Y T H E C O U R T:

The petition for rehearing is GRANTED. We find no error of fact or of law and affirm the conviction. We remand to the district court for correction of judgment and sentence on the concession of the government that Counts 3 and 4 should be merged, as multiple counts of fraud supported by a single mailing.

AFFIRMED and REMANDED.