

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-41121
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

SERGIO GONZALEZ-VERA,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. M-98-CR-195-2

August 24, 1999

Before KING, Chief Judge, and DAVIS and SMITH, Circuit Judges.

PER CURIAM:*

Sergio Gonzalez-Vera appeals from his sentence for possession with intent to distribute cocaine. Gonzalez contends that the district court should have adjusted his offense level downward because he was a minor participant and erred by increasing his offense level for reckless endangerment during flight.

Gonzalez's offense level was based on 858 kilograms of cocaine taken from the vehicle he was driving. Because the

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

sentence was based on an activity in which Gonzalez was actually involved, the district court did not err by declining to adjust Gonzalez's base offense level. *United States v. Atanda*, 60 F.3d 196, 199 (5th Cir. 1995). The district court did not err by finding that Gonzalez recklessly endangered others during his flight from police. Gonzalez's own conduct provided a sufficient basis for such a finding. *See United States v. Lugman*, 130 F.3d 113, 115 (5th Cir. 1997), *cert. denied*, 118 S. Ct. 1855 (1998).

AFFIRMED.