

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 98-50896

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

DENISE LUJAN-SAUCEDA,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Western District of Texas

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August 25, 1999

Before KING, HIGGINBOTHAM and STEWART, Circuit Judges.

HIGGINBOTHAM, Circuit Judge:

Appellant Denise Lujan-Sauceda pleaded guilty to possession with intent to distribute for carrying over 80 pounds of marijuana in her car. Her initial presentence report included a three-level reduction for acceptance of responsibility. Lujan-Sauceda then failed to appear at her sentencing hearing, and a warrant was issued for her arrest. She later turned herself in. At her second sentencing hearing, her offense level was revised to remove the three-level reduction and to include a two-level upward adjustment for obstruction of justice. Lujan-Sauceda argues on appeal that the district court erred in denying offense level reductions for acceptance of responsibility and for a minor or minimal role in the offense.

The denied requested reduction for acceptance of responsibility, addressed in section 3E1.1 of the Sentencing

Guidelines, results from the obstruction of justice adjustment. The Comment to section 3E1.1 notes, "Conduct resulting in an enhancement under §3C1.1 [Obstructing or Impeding the Administration of Justice] ordinarily indicates that the defendant has not accepted responsibility for his criminal conduct. There may, however, be extraordinary cases in which adjustments under both §§3C1.1 and 3E1.1 may apply." § 3E1.1 n.4. In this case, Lujan-Sauceda's eventual voluntary surrender does not present such an extraordinary circumstance.

The district court did not err in denying Lujan-Sauceda a downward adjustment for a minimal or minor role in the offense. Lujan-Sauceda was the only actor in her offense and the court used only the drugs she was transporting in calculating her sentence. Appellant's status as a first-time offender and her claims to be a courier do not require a different result.

The judgment of the district court is AFFIRMED.