

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-11175
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

MARK LAURENCE WEBER,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:01-CR-46-1-A

April 25, 2002

Before JONES, SMITH, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:*

Mark Laurence Weber appeals his sentence for conspiracy to commit mail fraud in violation of 18 U.S.C. §§ 371 and 1341. Weber argues that the district court erred when it denied him a three level acceptance of responsibility decrease pursuant to United States Sentencing Guideline § 3E1.1 since he entered a timely guilty plea and satisfied the obligations of § 3E1.1.

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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 district court denied the § 3E1.1 decrease, stating that it was very disturbed by Weber's admission that he ignored a court order to pay a small portion of the expenses of representation by the Federal Public Defender's office. The district court specifically found that Weber's behavior was contentious and inconsistent with the clear acceptance of responsibility contemplated in § 3E1.1.

Because the district court's denial of the § 3E1.1 decrease is supported by the factual credibility assessment of the court, based on Weber's testimony at the sentencing hearing, it cannot be considered clearly erroneous. See United States v. Thomas, 870 F.2d 174, 176 (1989). Therefore, the sentence is **AFFIRMED.**