

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-20555
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JUAN MANUEL GONZALEZ-
SALAZAR,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. H-00-CR-66-1

April 10, 2002

Before SMITH, DeMOSS, and PARKER, Circuit Judges.

PER CURIAM:*

Juan Manuel Gonzalez-Salazar argues that the district court clearly erred in enhancing his offense level pursuant to U.S.S.G. § 3B1.1 based on Gonzalez' organizational or leadership role in an illegal-alien smuggling organization. He argues that the presentence report (PSR) contained only conclusional statements and did not contain specific facts showing his leadership role in the organization.

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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 Sentencing Guidelines provide for a four-level upward adjustment of the defendant's offense level if a defendant is an organizer or leader of criminal activity involving five or more participants. See U.S.S.G. § 3B1.1(a). The district court's determination of a defendant's role in the offense is a finding of fact that is reviewed for clear error. See United States v. Posada-Rios, 158 F.3d 832, 878 (5th Cir. 1998).

We conclude that there is plausible evidence in the PSR to support the district court's determination and, thus, it was not clearly erroneous. United States v. Parker, 133 F.3d 322, 329-330 (5th Cir. 1998). The evidence in the PSR reflected that there were more than five individuals involved in the smuggling activity and that Gonzalez recruited participants and instructed them with regard to the manner in which the operation was to be carried out. The items discovered during the search of the Gonzalez apartment also indicated that the Gonzalezes controlled the tools used in the course of the smuggling operation.

Based on the un rebutted evidence in the PSR, the district court's determination that Gonzalez held a leadership role in the criminal activity was not clearly erroneous. United States v. Lage, 183 F.3d 374, 383 (5th Cir. 1999), cert. denied, 528 U.S. 1163 (2000). The sentence is AFFIRMED.