

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-51203
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

PATRICIO CRUZ, also known as Ticho,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. EP-99-CR-972-1-DB

August 21, 2002

Before HIGGINBOTHAM, DAVIS, and PARKER, Circuit Judges.

PER CURIAM:*

Patricio Cruz appeals the sentence he received after this court remanded his case to the district court for a hearing at which the Government and he were instructed to introduce evidence relevant to Cruz's involvement with marijuana seized on April 13, 1999, in an incident other than the one made the basis of the indictment. Cruz argues that the law of the case doctrine precluded the district court from allowing the Government to

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

introduce evidence and cross-examine witnesses at the hearing because this court had already determined on appeal that there was insufficient evidence to corroborate the details of the report on which the presentence report relied.

The quantity of marijuana in the April 13 transaction was not, however, the law of the case inasmuch as this court remanded the issue to the district court to be determined on remand. United States v. Becerra, 155 F.3d 740, 752-53 (5th Cir. 1998). Cruz ignores the mandate rule, which provides that a lower court on remand must implement both the letter and the spirit of the appellate court's mandate and may not disregard the explicit directives of that court. Id. Given that the district court followed the mandate of this court when it allowed the Government to introduce evidence at the sentencing hearing, the judgment of the district court is AFFIRMED.