

**March 30, 2004**

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 03-41000  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

RICARDO I. GUZMAN,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. C-03-CR-12-1  
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Before DUHÉ, BENAVIDES, and STEWART, Circuit Judges.

PER CURIAM:<sup>1</sup>

Ricardo I. Guzman appeals his sentence following his guilty plea conviction of being a felon in possession of a firearm in violation of 18 U.S.C. § 922(g)(1). Guzman argues that the district court clearly erred in finding by a preponderance of the evidence that he had used or possessed the firearm in connection with another felony offense, specifically, the kidnaping of Sally Moncevais. Guzman urges that the district court thus improperly

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<sup>1</sup> 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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.

ncreased his offense level by four levels pursuant to U.S.S.G. § 2K2.1(b)(5).

A review of the record shows that the district court correctly found that Guzman committed kidnaping as defined by Texas law. See TEX. PENAL CODE §§ 20.01(1); 20.03. A preponderance of the evidence also shows that the gun was used "in connection with" the kidnaping. See United States v. Fadipe, 43 F.3d 993, 994 (5th Cir. 1995).

AFFIRMED.