

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 92-8486
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

LAZARO ZABALA LUJAN,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Western District of Texas
USDC No. W-92-CR-19
- - - - -

June 24, 1993

Before POLITZ, Chief Judge, WIENER, and DeMOSS, Circuit Judges.

PER CURIAM:*

Lazaro Zabala Lujan was sentenced to 15 months of imprisonment and three years of supervised release for possession with intent to distribute marijuana. Subsequently, a petition to revoke Lujan's supervised release was filed. Following a revocation hearing, the district court revoked Lujan's period of supervised release and ordered a term of "imprisonment for a period of TWENTY-FOUR (24) MONTHS, TO BE SERVED CONSECUTIVELY TO ANY TERM OF INCARCERATION HANDED DOWN BY THE 54TH DISTRICT COURT

* Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

OF McCLENNAN COUNTY, TEXAS, IN CAUSE NO. 92-211-C." R. 1, 24-25.

Lujan has appealed this sentence on the ground that the district court does not have the authority to impose a sentence to run consecutively with a state court sentence that had not yet become final. Lujan relies on cases from the Ninth and Eleven Circuits to support this position. See United States v. Clayton, 927 F.2d 491, 493 (9th Cir. 1991); United States v. Eastman, 758 F.2d 1315, 1318 (9th Cir. 1985); Hawley v. United States, 898 F.2d 1513 (11th Cir. 1990). Lujan acknowledges that this Court has held that a district court may impose "a sentence consecutive to any sentence imposed in pending state proceedings." United States v. Brown, 920 F.2d 1212, 1217 (5th Cir.), cert. denied, 111 S.Ct. 2034 (1991).

Lujan's entire argument on appeal consists of a plea to this Court to reject Brown and adopt the holding of the Ninth Circuit in Clayton. "In this Circuit, one panel may not overrule the decision - right or wrong - of a prior panel, absent en banc reconsideration or a superseding contrary decision of the Supreme Court." In Re Dyke, 943 F.2d 1435, 1442 (5th Cir. 1991). As a result, the Court is bound by Brown.

AFFIRMED.