

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-8505

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

CHARLES T. PATILLO,

Defendant-Appellant.

Appeal from the United States District Court for
the Western District of Texas
(A-90-CR-43-All)

(May 12, 1994)

Before REAVLEY and EMILIO M. GARZA, Circuit Judges, and NOWLIN*,
District Judge.

PER CURIAM:**

Charles T. Patillo was sentenced to concurrent terms of imprisonment of 46 months for money laundering and bank fraud. He confessed and pleaded guilty but complains of the sentence. His contention was that the calculation of total offense points, without downward departure, should have been 24. The court

* District Judge of the Western District of Texas sitting by designation.

** 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 Pursuant to that Rule, the court has determined that this opinion should not be published.

sentenced him to the lowest number of months for offense points of 23. If Patillo were to succeed on all of his arguments here, his total offense points would be 23. If we ordered resentencing, the district court could decline downward departure and resentence Patillo to 46 or more months of imprisonment. We find no error to justify further proceedings.

Specifically, we find no harm or effect of the government's "suggestion" of a 24 point calculation. The court could have found that at least four individuals under Patillo's organization and leadership (Mitchell, Garcia, Heinz and Wilshusen) participated in the bank fraud. Whether or not the amounts of money involved should be combined simply because of the nature of the two charges, all of the criminal conduct was simultaneous and continuing and with the same illegal purpose.

AFFIRMED.