

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 93-9093  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JESUS GONZALEZ, a/k/a  
JESSE GONZALEZ,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 1:93-CR-014-01-C  
- - - - -

(September 21, 1994)

Before KING, SMITH, and BENAVIDES, Circuit Judges.

PER CURIAM\*

Jesus Gonzalez appeals his sentence for burglarizing a bank. Gonzalez first contends that his two bank burglaries and his attempted bank burglary should have been grouped for sentencing. Both USSG § 2B2.1 and the former § 2B2.2 (1992), under which Gonzalez was sentenced, explicitly are excluded from the guideline provision that directs courts to group certain offenses for sentencing as a single offense. § 3D1.2(d)(1992 & 1993).

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

The district judge therefore would have erred had he grouped the burglaries and the attempted burglary.

Gonzalez next contends that the district judge double-counted under the guidelines by adjusting his offense level for more than minimal planning and for his role as an organizer. This Court recently rejected an argument identical to that raised by Gonzalez. *United States v. Godfrey*, 25 F.3d 263, 264-65 (5th Cir. 1994).

AFFIRMED.