

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-11078
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

RICKIE LEE BEASLEY,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:94-CR-147-R
- - - - -

August 23, 1995

Before KING, JOLLY, and WIENER, Circuit Judges.

PER CURIAM:*

Rickey Lee Beasley contends that the district court failed to give adequate reasons to support its upward departure from the Sentencing Guidelines and that the extent of the departure was unreasonable.

As stated by the district court, Beasley's 21 criminal history points gave him 8 points more than the minimum required

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 Pursuant to that Rule, the court has determined that this opinion should not be published.

to be placed in criminal history category Level VI. See U.S.S.G. Ch. 5, Pt. A, sentencing table. The inadequacy of a defendant's criminal history category is an acceptable basis for an upward departure. See United States v. Laury, 985 F.2d 1293, 1310 (5th Cir. 1993). The district court's reason for departing upwardly was not clearly erroneous. See United States v. Pennington, 9 F.3d 1116, 1118 (5th Cir. 1993).

The district court's sentencing methodology was also proper. It used Beasley's criminal history category points in excess of the 13 required to reach Level IV to increase his offense level incrementally. This mode of calculation is appropriate. See United States v. Rosogie, 21 F.3d 632, 634-35 (5th Cir. 1994). The extent of the upward departure was not an abuse of discretion.

AFFIRMED.