

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-40901

Summary Calendar

UNITED STATES,

Plaintiff-Appellee,

versus

WESLEY EUGENE RAY,

Defendant-Appellant.

Appeal from the United States District Court
for the Eastern District of Texas
(6:93-CR-41(1))

(April 4, 1995)

Before GARWOOD, HIGGINBOTHAM, and DAVIS, Circuit Judges.

PER CURIAM:*

The lead poisoning and health problems suffered by Ray's employees, including one near-fatal case, supported the nine-level upward adjustment under U.S.S.G. § 2Q1.2(b)(2). Ray also merited the four-level increase under U.S.S.G. § 2Q1.2(b)(4) for lacking a permit. This is true even if the offender must know that he lacks

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

a permit, because Ray continued to operate even after he was told in March 1988 that he lacked interim operating status. AFFIRMED.