

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 96-30185  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

PATRICIO HOMERO SAENZ, JR.,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Western District of Louisiana  
USDC No. 93-CR-20046  
- - - - -

December 10, 1996

Before WIENER, BARKSDALE, and BENAVIDES, Circuit Judges.

PER CURIAM:\*

Patricio Saenz appeals from his sentence on remand. In his first direct appeal, we affirmed Saenz's conviction for conspiracy to import, and to possess with intent to distribute, in excess of 1000 kilograms of marijuana and in excess of 5 kilograms of cocaine, in violation of 21 U.S.C. § 841(b)(1)(A). United States v. Lopez et al., No. 94-40723 (5th Cir. Nov. 21, 1995). We remanded the case, however, for resentencing because

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\* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

the district court had erroneously included 650 pounds of marijuana in calculating Saenz's base offense level. Id. On remand, the district court reduced the marijuana attributable to Saenz by 650 pounds and found that the same offense level was applicable based on the remaining 1028 kilograms attributable to Saenz. The district court again sentenced Saenz to the 121 months' imprisonment, as it had sentenced him during his initial sentencing.

We need not address the various issues Saenz attempts to raise on appeal concerning aspects of Saenz's resentencing beyond the 650-pound marijuana reduction. On an appeal following remand, the only issue for consideration is whether the court below reached its final decree in due pursuance of this court's previous opinion and mandate. Burroughs v. FFP Operating Partners, L.P., 70 F.3d 31, 33 (5th Cir. 1995); see also United States v. Fiallo-Jacome, 874 F.2d 1479, 1482 (11th Cir. 1989) (quoting with approval, Martin v. Atl. Coast Line R.R., 289 F.2d 414, 416 (5th Cir. 1961) (Wisdom, J.)). The district court complied with this court's opinion and mandate and did not err when it resentenced Saenz.

AFFIRMED.