

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-41512
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

FRED F. DELGENIO,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Southern District of Texas
USDC No. C-98-CR-202-1
- - - - -

August 26, 1999

Before KING, Chief Judge, and JOLLY and DAVIS, Circuit Judges.

PER CURIAM:*

Fred Delgenio appeals from his sentence following his guilty-plea conviction for possession of marijuana with intent to distribute, a violation of 21 U.S.C. § 841(b)(1)(C). Delgenio's sole argument on appeal is that the district court erred in not granting him credit for acceptance of responsibility under U.S.S.G. § 3E1.1. The district court's decision was based on criminal activity that occurred after his plea and was unrelated to the offense to which he pleaded guilty. The court did not err

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

in refusing to grant the credit. See United States v. Watkins, 911 F.2d 983, 985 (5th Cir. 1990) ("the district court's interpretation that acceptance of responsibility includes refraining from any violation of the law is not without foundation").

AFFIRMED.