

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 93-3844  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JESUS GALBAN,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Eastern District of Louisiana  
USDC No. CR-93-111-M  
- - - - -  
(July 22, 1994)

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

PER CURIAM:\*

Jesus Galban argues that the district court's failure to adjust his offense level downward for the acceptance of responsibility was clearly erroneous.

"This Court reviews a district court's finding on acceptance of responsibility for clear error but under a standard of review even more deferential than a pure clearly erroneous standard."

United States v. Gonzales, 19 F.3d 982, 983 (5th Cir. 1994)

(internal quotations and citation omitted).

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

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Section 3E1.1(a) directs the sentencing court to decrease the offense level by two levels if the defendant "clearly demonstrates acceptance of responsibility for his offense." The defendant bears the burden to prove entitlement to the reduction. United States v. Lghodaro, 967 F.2d 1028, 1031 (5th Cir. 1992).

In determining whether a defendant is entitled to the reduction, consideration may be given to whether the defendant truthfully admitted the conduct comprising the offense of conviction, and truthfully admitted or did not falsely deny any additional conduct for which he is accountable. § 3E1.1, comment. (n.1(a)). "`The mere entry of a guilty plea . . . does not entitle a defendant to a sentencing reduction for acceptance of responsibility as a matter of right.'" United States v. Wilder, 15 F.3d 1292, 1298 (5th Cir. 1994) (citation omitted). A guilty plea entered prior to the commencement of trial combined with a defendant's truthful admission of involvement in the offense and related conduct is significant evidence of acceptance of responsibility. Id. However, such evidence may be outweighed by conduct of the defendant that is not consistent with the acceptance of responsibility. Id. A defendant's attempt to minimize or deny involvement in an offense supports the refusal to grant a reduction for acceptance of responsibility. United States v. Watson, 988 F.2d 544, 551 (5th Cir. 1993), cert. denied, 114 S.Ct. 698 (1994). Coyness and lack of candor also demonstrate inadequate acceptance of responsibility. United States v. Brigman, 953 F.2d 906, 909 (5th Cir. 1992), petition for cert. filed, (U.S. Aug. 4, 1992) (No. 92-5417).

Galban acknowledged at his rearraignment the validity of the statements contained in the factual basis supporting his guilty plea conviction. The factual basis stated that Galban personally negotiated the sale of cocaine to the agent on two occasions. Galban specifically denied engaging in the negotiations during the sentencing hearing. Therefore, Galban failed to admit truthfully that he committed the conduct comprising the offense of conviction.

The district court did not err in denying Galban a reduction of his offense level for the acceptance of responsibility.

AFFIRMED.