

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 02-4645

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

RAFAEL JAIMES-JAIMES,

Defendant - Appellant.

Appeal from the United States District Court for the Middle District of North Carolina, at Durham. Frank W. Bullock, Jr., District Judge. (CR-01-245)

Submitted: April 15, 2003

Decided: April 28, 2003

Before WIDENER, MOTZ, and TRAXLER, Circuit Judges.

Affirmed by unpublished per curiam opinion.

David G. Belser, BELSER & PARKE, P.A., Asheville, North Carolina, for Appellant. Anna Mills Wagoner, United States Attorney, Sandra J. Hairston, Assistant United States Attorney, Greensboro, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

A jury found Rafael Jaimes-Jaimes guilty of one count of conspiracy to distribute cocaine hydrochloride in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(a) & 846 (2000). On appeal, he contends the district court erred by imposing a four-level enhancement under U.S. Sentencing Guidelines Manual § 3B1.1(b) (2001) for being an organizer or leader of a criminal activity that included five or more persons. Finding no reversible error, we affirm.

An enhancement under the guidelines must be supported by a preponderance of the evidence. United States v. Urrego-Linares, 879 F.2d 1234, 1238-39 (4th Cir. 1989). We review a district court's factual findings at sentencing for clear error and its related legal conclusions, including the application of the Sentencing Guidelines, de novo. United States v. Daughtrey, 874 F.2d 213, 217 (4th Cir. 1989). We find the district court did not clearly err.

Accordingly, we affirm the conviction and sentence. We dispense with oral argument because the facts and legal arguments are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED