

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 96-41205
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

CUAHEMOC LABASTIDA-SALAZAR,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Southern District of Texas
USDC No. M-96-CR-37-1
- - - - -

November 12, 1997

Before DUHÉ, DEMOSS and DENNIS, Circuit Judges.

PER CURIAM:¹

Cuahtemoc Labastida-Salazar appeals from his sentence following his guilty-plea conviction for conspiracy to possess with intent to distribute heroin. He argues that the district court erred by enhancing his sentence pursuant to 18 U.S.C. § 3147 and by increasing his offense level by two pursuant to U.S.S.G. § 3B1.1(c). Because the releasing judge did not comply with 18 U.S.C. § 3142(h)(2)(A), the sentencing court erred by enhancing Labastida-Salazar's sentence pursuant to § 3147. See United States v. Onick, 889 F.2d 1425, 1433-35 & n.7 (5th Cir. 1989). Accordingly, the thirty-month sentence imposed pursuant to

¹ 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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.

§ 3147 is VACATED. The remainder of the district court's judgment is AFFIRMED.