

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-50776
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

TITO PATINO MARTINEZ,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Western District of Texas
USDC No. SA-89-CR-37-ALL

- - - - -
April 15, 1999

Before JONES, SMITH, and DUHÉ, Circuit Judges.

PER CURIAM:*

Tito Patino Martinez appeals the district court's sentence following the revocation of his supervised release. Martinez argues that the district court erred in sentencing him above the range recommended by the applicable policy statements without first finding that a sentence of that length was necessary for him to participate in the Bureau of Prison's drug treatment program.

We have reviewed the record and the briefs of the parties and hold that the sentence, which was below the statutory

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

maximum, was lawful and not plainly unreasonable. United States v. Giddings, 37 F.3d 1091, 1097 n.18 (5th Cir. 1994); United States v. Headrick, 963 F.2d 777, 783 (5th Cir. 1992).

AFFIRMED.