

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 97-40550
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JOHN RUSSELL PELSER,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 4:96-CR-61-ALL
- - - - -

October 22, 1997

Before POLITZ, Chief Judge, and WIENER and DENNIS, Circuit Judges.

PER CURIAM:*

John Russell Pelser is appealing from his guilty-plea conviction for possession with intent to distribute or dispense methamphetamine and aiding and abetting the same offense. He argues that the district court erred by not granting him a reduction in sentence for acceptance of responsibility.

The district court denied Pelser an offense level reduction for acceptance of responsibility because Pelser engaged in assaultive behavior while on pretrial release. A sentencing

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

court may properly deny a defendant a reduction for failing to refrain from criminal conduct while on pretrial release. United States v. Rickett, 89 F.3d 224, 227 (5th Cir.), cert. denied, 117 S.Ct. 499 (1996). The district court did not clearly err by denying Pelser a reduction for acceptance of responsibility. See United States v. Thomas, 12 F.3d 1350, 1372 & n.39 (5th Cir. 1994).

AFFIRMED.