

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-10908
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ANTONIO ALVARADO-ESCARCEGA,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Northern District of Texas
USDC No. 2:97-CR-64-1
- - - - -

April 15, 1999

Before JONES, SMITH, and DUHÉ, Circuit Judges.

PER CURIAM:*

Antonio Alvarado-Escarcega appeals his sentence following his guilty-plea conviction for abusive sexual conduct, 18 U.S.C. § 2244(a)(2). Alvarado argues that the district court's decision to depart upward from the sentencing guidelines was in error because the court failed to explain adequately its reasons for departing. The district court's decision to depart from the sentencing guidelines is reviewed for an abuse of discretion. United States v. McKenzie, 991 F.2d 203, 204 (5th Cir. 1993).

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

The reasons for rejecting criminal history category IV were implicit in the district court's decision to depart upwardly in the first place. See United States v. Ashburn, 38 F.3d 803, 809 (5th Cir. 1994) (en banc). Accordingly, the district court's decision to depart was not an abuse of discretion, and Alvarado's sentence is AFFIRMED.