

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-40060
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

BRAULIO RAMIREZ, a/k/a Big Foot,
a/k/a Lali,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Southern District of Texas
USDC No. B-96-CR-314-14
- - - - -

October 22, 1998

Before POLITZ, Chief Judge, and WIENER and DENNIS, Circuit Judges
PER CURIAM:*

Braulio Ramirez appeals his sentence for conspiracy to possess with the intent to distribute over 1000 kilograms of marijuana. He asserts that the district court erred in using his September 28, 1993, conviction in Texas state court for possession of marijuana in calculating his criminal history category. Because this conviction occurred after the instant offense, asserts Ramirez, it is not a "prior sentence" within the meaning of U.S.S.G. § 4A1.1(a).

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Ramirez's argument is forestalled by this court's holding in United States v. Lara, 975 F.2d 1120, 1129 (5th Cir. 1992). His assertion that the holding in Lara ought to be reconsidered in light of an apparent contradiction presented by the language of § 4A1.2(e)(1) is unavailing. See United States v. Ruff, 984 F.2d 635, 640 (5th Cir. 1993).

AFFIRMED.