

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-40133
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

CHARLES RAY POLK,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 6:95-CR-38-ALL

- - - - -
October 22, 1998

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

PER CURIAM:*

Charles Ray Polk appeals the sentence he received after his case was remanded for resentencing. He contends that the district court erred when it resentenced him because it used U.S.S.G. § 2A1.5, the "murder" guideline, to determine his base offense level. Polk's challenge to the district court's application of that guideline is barred by the law-of-the-case doctrine and is beyond the scope of remand. See United States v. Marmolejo, 139 F.3d 528, 530-31 (5th Cir. 1998), petition for

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

cert. filed, (U.S. Jul. 20, 1998)(No. 98-5372); Chevron U.S.A., Inc. v. Traillour Oil Co., 987 F.2d 1138, 1150 (5th Cir. 1993).

AFFIRMED.